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ABSTRACT

The booklet describes economic handicaps faced by women who become divorced or widowed. The purpose of the document is to increase the general public's understanding of how customs, old laws, and government policies support the framework of the family when things go wrong. The document is presented in four major sections. Section I focuses on marriage and offers 12 case studies on the following topics: marriage and money, the meaning of the right to support, what a wife's services are worth, personal rights in marriage, and violence. Section II offers case studies of 11 divorce-related situations. The case studies focus on divorce without fault, financial settlements, compensation for lost earning power, child custody, maintenance payments, enforcement of support payments, double standards, and transfer of debts. Section III presents eight case studies dealing with aspects of widowhood such as social security, pensions, insurance, family property, inheritance tax, co-ownership of real estate, and estate planning. The final chapter summarizes ways in which the marriage and marital property laws can be changed to reflect modern social trends. (DB)

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REAL WOMEN REAL LIVES

MARRIAGE DIVORCE WIDOWHOOD

This book was printed June, 1978. We did everything we could to make it accurate as of that date. However, laws and agency rulings are constantly modified. You may want to double check information contained here before acting on it, especially if several years have elapsed from the time this was written.

SO 011 188

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Wisconsin Governor's Commission on the Status of Women

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ABOUT THIS BOOK

The Why

Most of these true stories do not have happy endings. In part that is because in real life few people marry to live happily ever after, as the fairy stories of our childhood led us to expect. In part it is because most of the stories were chosen to illustrate lesser known points of law still on the books that most fair-minded people today (when they become *aware* of the law) think should be changed.

The purpose of telling these stories, then, is not to show family life as sour, miserable or demeaning. The purpose is to increase our understanding of how old laws and government policies either succeed in or fail to support the framework of the family when things go wrong. The purpose in telling these stories is to strengthen our commitment to providing just laws.

One other point. We know that there is no monopoly of virtue by either sex. Women as well as men can at times be stubborn, unreasonable, and unkind. There is, however, in family law, when push comes to shove, an imbalance in power. In regard to some decisions, the man, the traditional head of the family and assumed breadwinner, carries much more weight in law when he chooses to make a decision than does his wife. So he has much more opportunity to succeed in being stubborn, unreasonable and unkind.

The writers of this book believe that all human beings–women and men–have a flourishing common sense and feel for what is fair. They want to move you to work together with them to make marriage an equal partnership and the family a stable place of refuge for us all.

The idea for a book showing what happens to homemakers in real life first came in 1974. That was when the Wisconsin Governor's Commission on the Status of Women sponsored six conferences throughout the state on Homemaking and The Family: Changing Values and Concerns. It was then that the women of the state first made the Commission so acutely aware of the hazards of choosing homemaking as a career.

The Commission was overwhelmed by the chasm between the myth and the reality of the place of motherhood in American society. It was appalled at the waste of human goodwill and talent in discarding of so many skilled and experienced homemakers. It was saddened by the high proportion of women who ended their lives in loneliness and poverty. It determined to make the reality better known and more widely understood so that people could work toward bringing that reality closer to the dream we all share.

The How

We started out with legal research: Many of the stories came from court decisions that are recorded in casebooks in law libraries. Some of the stories we clipped from newspapers as they had been reported. The letters were some of those sent Channel 6 in Milwaukee when it showed a series on displaced homemakers in 1977. Most other stories were written by the women themselves (with a name change in most cases to protect their privacy). One story, The Discarding of Mrs. Hill, written by Cynthia Gorney, first appeared in the February, 1976 issue of the Ladies Home Journal. In a few instances real women told us about part of their lives and gave their consent to our retelling their stories.

Who Put It Together

Editor and part author of this book was Norma Briggs, Executive Secretary to the Wisconsin Governor's Commission on the Status of Women. Many of the court case summaries and some questions and answers were written by Linda Roberson, an attorney with the Legislative Reference Bureau. Diane Sherman, a law student, put together the materials for the family violence and widowhood sections. Leila Pine, a reporter, interviewed and summarized the stories of several real women.

Many others have made contributions toward the development of this book. Marian Thompson, Associate Professor in Family Development, University of Wisconsin Extension, provided materials for many of the questions and answers. June Weisberger, Associate Professor of Law, University of Wisconsin Law School, took the role of legal consultant. Karen Hoel and Nancy Fago of the Commission office both contributed ideas, good humor and excellent typing skills.

In all, there were many other members of the Commission on the Status of Women, attorneys, and other people who helped with insights, comments, and reactions as the book finally took shape.

INTRODUCTION

As We Think of Marriage

Most of us are married, were married, or, if we are young, expect to marry. Our personal experiences with marriage will vary enormously. Some of us stay married for 60 years; for some a marriage lasts less than six months. Some of us develop extraordinarily close, intense relationships; some remain cool and keep our distance. Some of us make marriage with our partner satisfying and fulfilling; some find it painful and destructive.

Though our individual experiences are unique, most of us developed common expectations about marriage from the folklore we grew up with. Think of this song:

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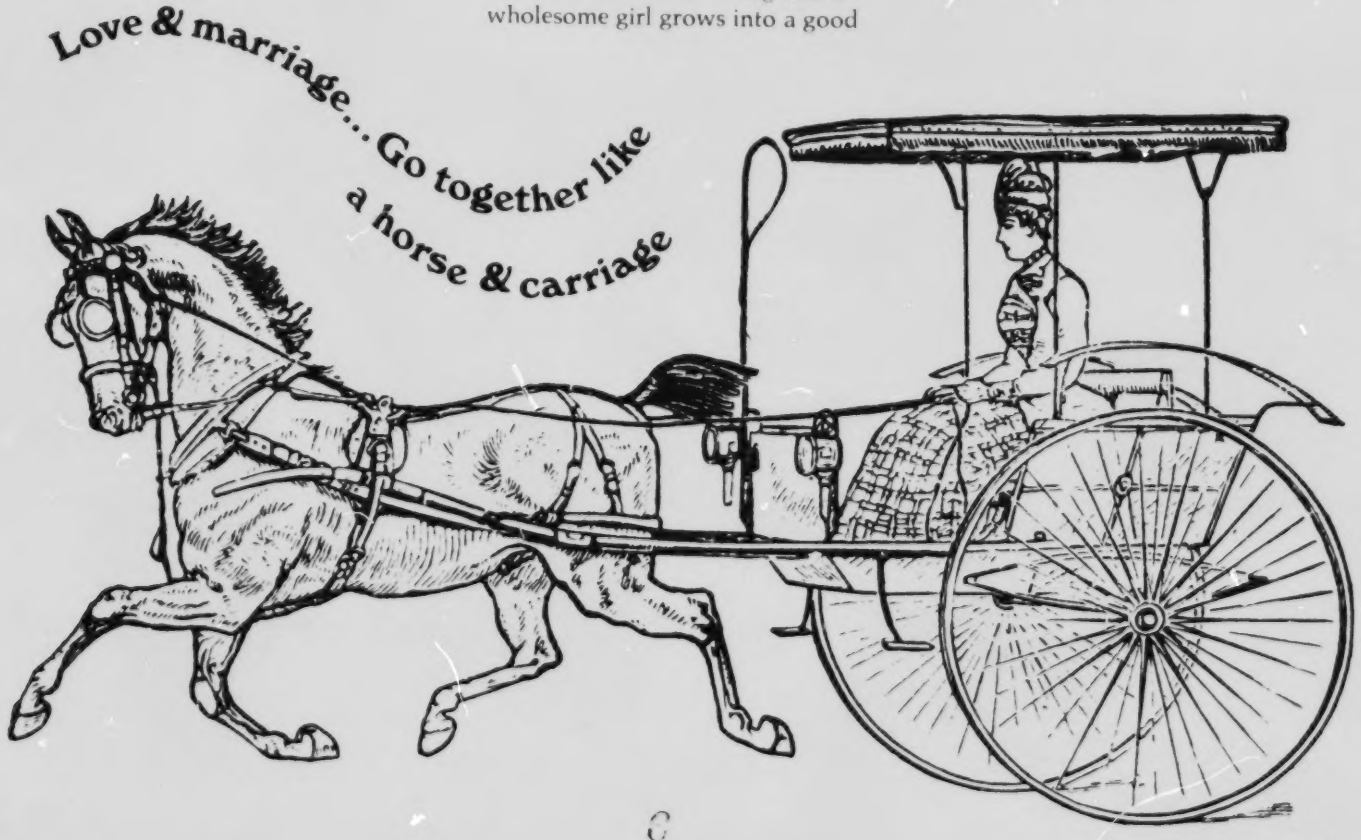
We are used to thinking of marriage as the natural culmination of a young woman's maturity. As Elinor Glyn said in Harper's Bazaar in 1913: "Marriage is the aim and end of all sensible girls, because it is the meaning of life."

We are used to thinking that a wholesome girl grows into a good wife and mother. A good wife, of course, succeeds in pleasing her husband. And a good mother is revered, honored on Mother's Day and cherished by all in her old age.

A woman who chooses *not* to be married has until recently been considered unnatural. Bachelors are described as carefree, but spinsters have popularly been subjects for pity or ridicule. An old maid was the object of scorn, and an unmarried career woman, at the very least, suspicious. Marriage, then, has been considered the accepted destiny of all normal women and has been part of the fabric of their lives.

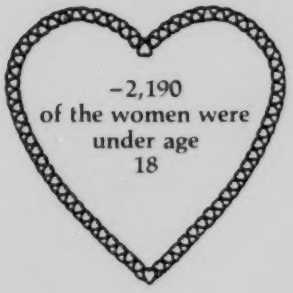


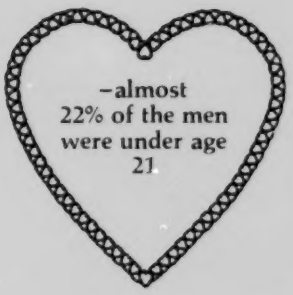
"Marriage is the aim and end of all sensible girls, because it is the meaning of life."

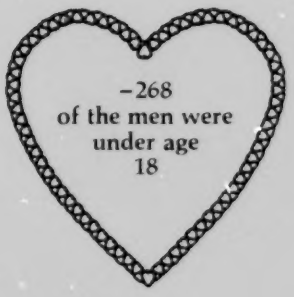
ELINOR GLYN (1864-1943)
"Letters to Caroline,"
Harpers Bazaar, 1913

In 1976, there were 72,048 men and women married in Wisconsin

–over 40% of the women were under the age of 21







Our Ideal

My true-love hath my heart, and I have his,
By just exchange one for another given:
I hold his dear, and mine he cannot miss,
There never was a better bargain driven:
My true-love hath my heart, and I have his.

Since the mid-16th century, when Sir Phillip Sidney wrote this, poems and songs have permeated our lives, defining for us the ideal of romantic love. Young girls' dreams of the chivalrous medieval knight in armor on his white horse have altered only in detail over the past several hundred years as this 20th Century song about "The Man I Love" demonstrates:

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Or how about these words sung by Rubicon, a male rock group, whose song made the Top 40 for several weeks during Spring, 1978:

I'm gonna take care of everything
I'm gonna take care of you.

Our ideal, then, for almost a thousand years, has been of a romantic exchange of love between a young man and an even younger woman. His role was to be strong, dependable, protective and silent; hers was to be (at the start) demure, tremulous, pure and pliant and (as she matured) sensitive, loving, obedient and loyal.

In one common form of the marriage vows the wife promised to "love, honor and obey, till death do us part."

For many years one of the most popular pieces played at American weddings envisioned married bliss as paradise and married love as being perfect. Here are some of the words:

Oh promise me that you will take my hand
The most unworthy in this lonely land,
And let me sit beside you, in your eyes
Seeing the vision of our paradise,
Hearing God's message while the organ rolls
Its mighty music to our very souls;
No love less perfect than a life with thee;
Oh promise me! Oh promise me!

Another ideal theme, of more recent origin, is that of marriage as a partnership. Many couples in modern America look on marriage as a cooperative venture. They may divide responsibilities along traditional lines, the husband providing for the family financially and the wife fulfilling the homemaking role and raising the children. They may work side-by-side operating a family farm or business or they may both work outside the home and share the household chores. Whatever their arrangements, they feel that both are active participants in and contributors to the family well-being. Both feel equally responsible for shouldering the burdens of the family and believe that they should share the joys of its benefits as they share the responsibilities.

Whatever the dominant theme, our ideal of marriage has been that it would be happy ever after:

Love is always young and fair.
What to us is silver hair,
Faded cheeks or steps grown slow,
To the heart that beats below?
Since I kissed you, mine alone,
You have never older grown...

Darling, I am growing old;
Silver threads among the gold
Shine upon my brow today;
Life is fading fast away.

"You may observe mother instinct at its height in a fond hen sitting on china eggs–instinct, but no brains."

CHARLOTTE PERKINS GILMAN (1860-1935)
"Two Callings," The Home, 1910

A Woman's Place

This idealized vision of love and marriage and the place of men and women within the "natural" order led to active discouragement of either sex stepping outside its "place."

Here is part of a Wisconsin Supreme Court decision of 1875, denying a woman admission to the bar because of her sex. Miss Lavinia Goodell had been successfully practicing law in Janesville for a year and a half when the court refused her permission to continue with these words:

> The law of nature destines and qualifies the female sex for the bearing and nurture of the children of our race and for the custody of the homes of the world and their maintenance in love and honor. And all life-long callings of women, inconsistent with these radical and sacred duties of their sex, as is the profession of the law, are departures from the order of nature; and when voluntary, treason against it. The cruel chances of life sometimes baffle both sexes, and may leave women free from the peculiar duties of their sex. These may need employment, and should be welcome to any not derogatory to their sex and its proprieties, or inconsistent with the good order of society. But it is public policy to provide for the sex, not for its superfluous members; and not to tempt women from the proper duties of their sex by opening to them duties peculiar to ours. There are many employments in life not unfit for female character. The profession of the law is surely not one of those. The peculiar qualities of womanhood, its gentle graces, its quick sensibility, its tender susceptibility, its purity, its delicacy, its emotional impulses, its subordination of hard reason to sympathetic feeling, are surely not qualifications for forensic strife. Nature has tempered woman as little for the juridical conflicts of the court room, as for the physical conflicts of the battle field. Womanhood is moulded for gentler and better things. And it is not the saints of the world who chiefly give employment to our profession. It has essentially and habitually to do with all that is selfish and malicious, knavish and criminal, coarse and brutal, repulsive and obscene, in human life. It would be revolting to all female sense of the innocence and sanctity of their sex, shocking to man's reverence for womanhood and faith in woman, on which hinge all the better affections and humanities of life, that woman should be permitted to mix professionally in all the nastiness of the world which finds its way into courts of justice; all the unclean issues, all the collateral questions of sodomy, incest, rape, seduction, fornication, adultery, pregnancy, bastardy, legitimacy, prostitution, lascivious cohabitation, abortion, infanticide, obscene publications, libel and slander of sex, impotence, divorce ...Reverence for all womanhood would suffer in the public spectacle of woman so instructed and so engaged...Discussions are habitually necessary in courts of justice, which are unfit for female ears. The habitual presence of women at these would tend to relax the public sense of decency and propriety.

In other words, the court believed a woman's right and proper place was in the home, and that that was where she should stay.

Today we no longer forbid women to practice the professions or work outside the home. In fact, for many families, economics make paid work a necessity: 64 percent of the women employed in the U.S. in 1977 were not married or had husbands who earned less than $10,000 a year; 54 percent were not married or had husbands who earned less than $7,000 that year. Today, 49 percent of all women in the United States are employed outside the home.

But since most of us were raised with the conviction that a woman's *primary* role was as wife and mother, a woman's paid employment has generally been viewed as less important to her than that of a man. It has been seen as less important that she be paid well and less important that she be educated and trained for well-paying work because it has been assumed that she will have a man to take care of her and that her wages will be, at most, secondary. Traditionally a woman was not supposed to be an independent person. She was encouraged to be docile and to know her place, and, in return, she would be protected and provided for.

Van Schaick Collection, State Historical Society of Wisconsin

"This is precisely the situation in which property finds itself; it may be overworked and underfed or it may be petted and fed with cream, and that is a matter for the owner to decide."

BLANCHE CROZIER
Marital Support, 1915

Our Heritage

Van Schaick Collection, State Historical Society of Wisconsin

Early laws gave all the legal responsibilities for the family to the husband and father. In most states, marriage meant that a woman's right to control her own property was ceded to her husband and that her contributions to the economic well-being of the marriage belonged by right to him alone. In other states, where married women retained control of property they owned before marriage, they had also–in theory–an equal share of property acquired by joint efforts, but in practice had no right to manage or control it.

The first group of states derive their marriage laws from the old English common law. The doctrine of "coverture" summarized by William Blackstone in 1765 was the starting point:

> By marriage, the husband and wife are one person in law: that is, the very being or legal existence of the woman is suspended during the marriage, or at least is incorporated and consolidated into that of the husband; under whose wing, protection, and cover, she performs everything.

What did this mean for the woman who, like property, had been given by her father to her husband? It meant that she could not, while married, deal with any property herself. She had no right to enter into a contract. She could not sue or be sued. She could not manage or control land. She could not choose where to live. Theoretically, husbands did not own their wives' property but held it in trust: but this was often no more than a fiction in frontier states where court systems were rudimentary, and meant little to women who had neither the means nor the education to enforce their paper rights. Perhaps the most damaging aspect of the trust concept was that it treated women as inferior beings, in a class with infants and idiots, unfit to control their own property and needing the guidance of benevolent guardians. No women, married or single, could vote, serve on a jury or hold public office.

Nineteenth century reformers perceived the injustice of the old common law view of married women's property rights. Beginning in 1839, American states enacted varying forms of the Married Women's Property Act. Wisconsin's version of the act, now numbered as Chapter 246 of the statutes, was passed in 1850, and allowed women to retain after marriage the rights they had before: to purchase property, to sue in their own names, to obtain credit and to be responsible for their own debts. What has resulted from these reforms is a "separate property" system. A recent summary of Wisconsin laws affecting women contains this description of the system:

> This means that all income earned by either spouse belongs to that spouse alone, subject to the duty to support a nonearning spouse. This system works a great hardship on the spouse–usually the wife–who works in the home and does not earn income from an outside job. Despite her substantial contributions to the marriage partnership, the law does not recognize her domestic and child-bearing services as having any economic value...When a marriage ends, through death or divorce, a wife who has worked

"In every known society, the male's need for achievement can be recognized. Men may cook, or weave, or dress dolls, or hunt hummingbirds, but if such activities are appropriate occupations of men, then the whole society, men and women alike, votes them as important. When the same occupations are performed by women, they are regarded as less important."

MARGARET MEAD (1901-)
Male and Female, 1949

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beside her husband for years to build a life together may find that he is or was a wealthy man and she is suddenly virtually penniless because the assets they have accumulated cooperatively over the years belong to the person who earned the money to pay the bills. Despite the labor contributed and sacrifices made for her family, the housewife has only a limited legal right to family assets...

By contrast, in the eight states* which do not base their marriage laws in the old common law, there exists a system of "community property." In those states, income earned and property accumulated during a marriage by either spouse belong equally to both, in recognition of the fact that both the income producer and the nonearner have contributed equally, though in different ways, to the economic success of the marriage. Spouses in

*the eight community property states are: Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas and Washington.

Van Schaick Collection, State Historical Society of Wisconsin

Marriage is a covered dish. SWISS PROVERB

community property states also have the right, as individuals, to own and control property they owned when single or which they have inherited or been given while married. Even in community property states, the law has been reluctant to give women complete equality with their husbands: while wives there had equal ownership in the community property, their husbands, until the last decade, retained the legal right to manage and control it.

In summary, our legal tradition of the wife's protected and submerged role in marriage has brought with it the same kinds of social, legal and economic disabilities shared by others of "inferior" status such as children and slaves. This tradition is so deeply ingrained into our law and has so pervaded our entire legal system that, despite the many legislative and judicial attempts to soften the most harsh aspects of its application, the married woman is in many ways still seriously disadvantaged.

"(There was a) time when the wife was regarded in law in some respects as her husband's chattel. He was allowed damages for injury to her in much the same manner that he would have been allowed damages for the loss or injury of one of his domestic animals."

–The judge in the case of Kronenbitter v. Washburn Wire Co.

RECENT PROGRESS

Wisconsin Law

Since the 1974 conferences, Homemaking and The Family: Changing Values and Concerns, there has been a renewed interest in Wisconsin in family law and how laws affect women. Here are some of the more notable changes:

Chapter 94 of the laws of 1975 brought most of the laws of the state into conformity with the Equal Rights Amendment. It threw out numerous ways in which the laws treated men and women differently. It equalized the age of marriage and permitted men as well as women to leave jail on Huber law privileges for purposes of housekeeping and family care. It gave mothers as well as fathers the right to register the birth of a child or to sign a minor child's motor vehicle purchase and registration.

Chapter 184 of the laws of 1975 changed rape from a crime against sexual morality or a crime of passion to what sexual assault really is–a crime of violence. It shifted the emphasis from the degree of resistance displayed by the victim to the amount of force used by the attacker. It also changed the focus of court proceedings from the victim's lifestyle and sexual history to the act for which the defendant was on trial.

Chapter 222 of the laws of 1975 changed the state inheritance tax on property held in joint tenancy. It clearly stated the principle of equal ownership of certain property held in joint tenancy by a married couple and challenged previous holdings that the homemaker must prove she has a right to a share only through financial contributions.

Finally, Chapter 105 of the laws of 1977, which reformed the divorce laws, was hailed by the National Commission on the Observance of International Women's Year as "the fairest in the nation in its provisions for dependent spouses and children in divorce actions." It not only removed the concept of fault from divorce actions, but it codified the intent of the legislature that a spouse who has been handicapped socially or economically by his or her contributions to a marriage (including unpaid child care or homemaking) shall be compensated at the termination of the marriage. That person may receive additional education where necessary to permit him or her to become self-supporting at a standard of living reasonably comparable to that enjoyed during the marriage. The law also set up, for the first time, good administrative procedures for the enforcement of orders for child support payments.

"The women who do the most work get the least money, and the women who have the most money do the least work."

CHARLOTTE PERKINS GILMAN (1860-1935)
Women and Economics, 1898

National Awareness

These changes would not have been possible without a growing awareness on the part of the general public of the inequities in the old laws and political expression of the wish to see them revised.

One other significant measure of the crystallization of mid-twentieth century thinking can be seen in the unprecedented participation of women in the 1977 state women's meetings, which culminated in the first National Women's Conference in Houston, Texas, in November, 1977. Overall, approximately 130,000 American women of all persuasions and from all walks of life attended the state meetings, and more than 1,300 took part in the Wisconsin meeting. At the National conference, resolutions were adopted on 25 subjects ranging from the arts to welfare. The opinions of the vast majority of American women have for the first time been clearly articulated in a national forum and summarized in the National Plan of Action. Here is the National Plan of Action resolution on Homemakers.

The Federal Government and State legislatures should base their laws relating to marital property, inheritance, and domestic relations on the principle that marriage is a partnership in which the contribution of each spouse is of equal importance and value.

The President and Congress should support a practical plan of covering homemakers in their own right under social security and facilitate its enactment.

Alimony, child support, and property arrangements at divorce should be such that minor children's needs are first to be met and spouses share the economic dislocation of divorce. As a minimum every State should enact the economic provisions of the Uniform Marriage and Divorce Act proposed by the Commissioners on Uniform State Laws and endorsed by the American Bar Association. Loss of pension rights because of divorce should be considered in property divisions. More effective methods for collection of support should be adopted.

The Census Bureau should collect data on the economic arrangements at divorce and their enforcement, with a large enough sample to analyze the data by State.

The Federal and State Governments should help homemakers displaced by widowhood, divorce, or desertion to become self-sufficient members of society through programs providing counseling, training and placement and counseling on business opportunities; advice on financial management; and legal advice.

Congressional Response

Constituent concern over the homemaker's legal and social disabilities has led to a flurry of proposals in the U.S. Congress: more than 400 bills relating to the status of women have been introduced in the current Congressional session. Here are a few of the more significant proposals:

Displaced Homemakers Assistance Act–would set up a service center in each state to provide job training, placement, and counseling for homemakers who are over 40 years old, are widowed or divorced, have not worked for pay for many years, and are not eligible for Social Security or welfare.

Equity in Social Security For Individuals and Families Act–would split a married couple's total income for purposes of Social Security credit and assign each spouse an individual wage record on which future benefits would be based. If the marriage ends, both would retain their individual credit.

Homemaker Retirement Act–would permit homemakers to set up individual retirement accounts of their own, instead of requiring joint accounts with their husbands. A homemaker would be allowed to invest up to $1,500 annually in her account.

Part-Time Career Opportunity Act–would open up part-time career opportunities at nearly all levels of the federal government, and thus would accommodate the needs of mothers whose family responsibilities prevent them from pursuing paid careers full-time.

Federal Employes Flexible and Compressed Work Schedules Act–would permit federal employes to arrange their job hours to suit their personal convenience, so that instead of being tied to an 8-to-5 schedule, an employe could work from 10 to 7, or even 8 to 7 four days a week.

Schlesinger Library, Radcliffe College

"The labor of women in the house, certainly, enables men to produce more wealth than they otherwise could; and in this way women are economic factors in society. But so are horses."

CHARLOTTE PERKINS GILMAN (1860-1935)
Women and Economics, 1898

Private Sector Part-Time Employment Act–would offer private employers tax credits for hiring part-time career employes.

Head of Household Tax Equity Act–would give a single parent the same standard tax deduction as a married couple.

The emphasis on employment-related proposals, the attempts to ease crisis situations rather than to eliminate their underlying causes, and the fact that the one truly significant proposed reform to the social security system has an uncertain future, demonstrate that our national leaders have not yet focussed on the core problem. They have not yet realized that fundamental changes in our marriage, property, tax, social security and insurance systems are necessary if the homemaker's substantial contributions to families and to society are to be given appropriate economic weight.

Displaced Homemakers Assistance Act
H. R. 10270, co-sponsored by Representatives Yvonne Braithwaite Burke and Augustus F. Hawkins (both D-Calif.)

Equity in Social Security For Individuals and Families Act
H. R. 3247, co-sponsored by Representative Donald F. Fraser (D-Minn.) and Representative Martha Keys (D-Kans.)

Homemaker Retirement Act
H. R. 4649, sponsored by Representative Paul Trible (R-Va.); S. 1783, sponsored by Senator Wendell Anderson (D-Minn.)

Part-Time Career Opportunity Act
H. R. 1627, sponsored by Representative Yvonne Braithwaite Burke (D-Calif.); S. 518, sponsored by Senator Gaylord Nelson (D-Wis.)

Federal Employes Flexible and Compressed Work Schedules Act
H. R. 2732, sponsored by Representative Stephen Solarz (D-N.Y.); S 517, sponsored by Senator Gaylord Nelson (D-Wis.)

Private Sector Part-Time Employment Act
H. R. 2402, sponsored by Representative Barber Conable, Jr. (R-N.Y.)

Head of Household Tax Equity Act
H. R. 8734, sponsored by Representative Bill Frenzel (R-Minn.); S. 1644, sponsored by Senator Bob Packwood (R-Oreg.)

SOURCES

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3. Oh Promise Me: words by Clement Scott.
4. Silver Threads Among the Gold: words by Eben E. Rexford.
5. Lavinia Goodell: *In the Matter of the Motion to Admit Miss Lavinia Goodell to The Bar of This Court*, 38 Wis. 232 (1875).
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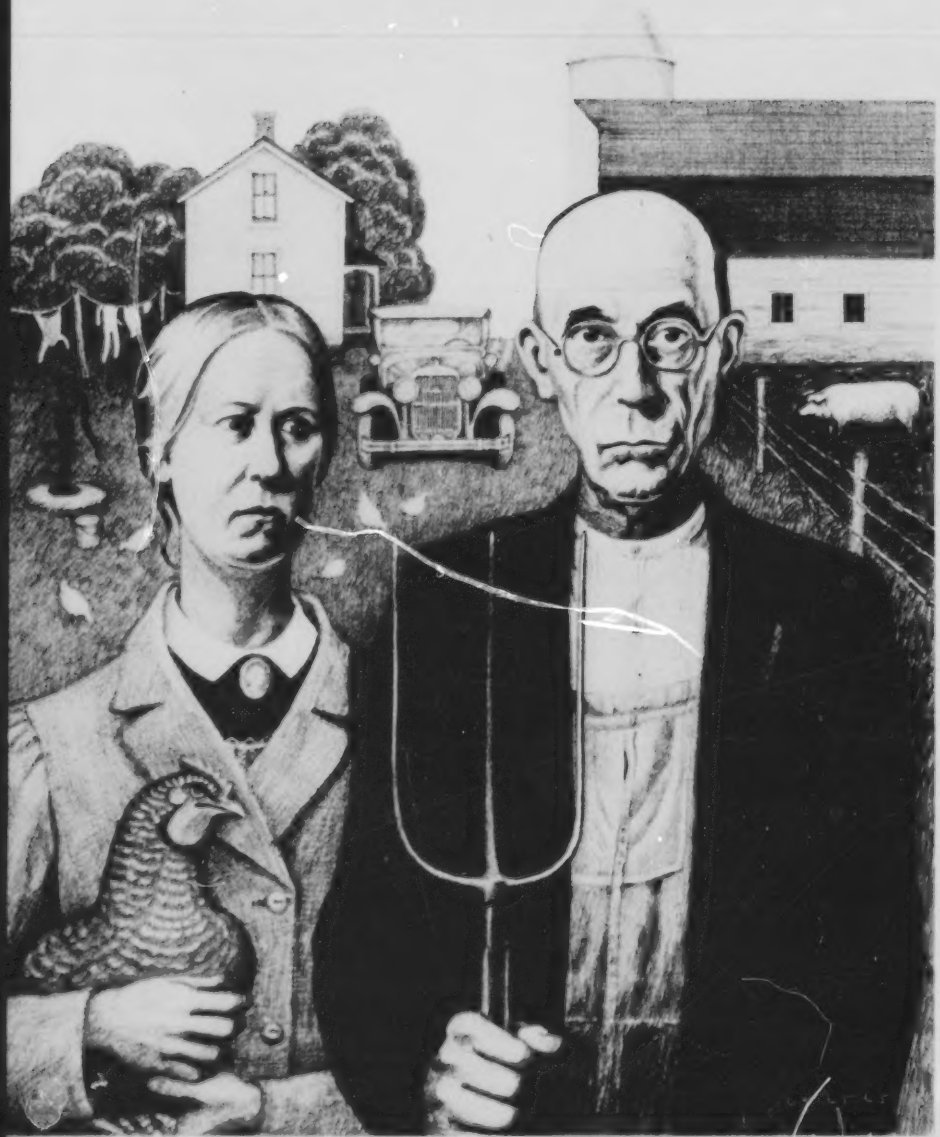
MARRIAGE: SOME REAL LIFE SITUATIONS



MARRIAGE AND MONEY

The True Story of Lydia McGuire, a Farm Wife

In 1919, Lydia, a young Nebraska widow with two daughters, married Charles McGuire, a middle-aged farmer. For more than 30 years she was, in her words, a "dutiful and obedient wife," working in the fields, keeping a garden, cooking and cleaning, raising as many as 300 chickens at a time for their poultry and egg business, as well as doing other farm and household chores. She used her poultry and egg money to buy groceries and clothes, because her husband was unwilling to give her money for any purpose. During their married life, he bought her only one piece of clothing—a coat, purchased after 30 years of marriage. As Lydia grew older she developed health problems and was no longer able to do the heavy farm work which had provided her with food and clothing. Her husband then bought the groceries and paid for her medical bills, but refused to pay for clothing and other necessities. So Lydia's clothing consisted of gifts from her daughters of a dress or two a year.

In the middle 1950s, the McGuires lived in a house which lacked an inside toilet, bathing facilities, and a kitchen sink. Lydia drew water from a well and heated it in order to bathe, wash dishes, and do laundry. She also had to shovel coal into and

"Where husband and wife are living together, the wife has implied authority to pledge her husband's credit for such things as fall within the domestic department ordinarily confided to her management, and for articles furnished to her for her personal use *suitable to the style in which the husband chooses to live.*"

Gimbel Bros., Inc. v. Barrett,
109 N.J.L. 63, 160 A 406
(E. & A. 1932).
Emphasis added.

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scoop ashes from an old, inefficient coal furnace. The McGuires had a 24 year old car with a malfunctioning heater and an even older pickup truck. They also had a telephone, but Lydia was not permitted to make long distance calls to her married daughters, who lived in other states.

Was Charles McGuire a poor man? Hardly. He owned about 400 acres of farm land, more than 100,000 in Government bonds, and several thousand dollars in other savings. In the 1950s his income, from interest and from renting out his land, was between $8,000 and $9,000 per year.

When Lydia McGuire was 66, she went to court to ask that her husband be required to provide her with a home equipped with indoor plumbing and a modern furnace, a new automobile with a heater that worked, and a reasonable sum for living expenses.

The court denied her request, explaining as follows:

"The living standards of a family are a matter of concern for the household and not for the courts to determine, even though the husband's attitude...leaves little to be said in his behalf. As long as the home is maintained and the parties are living as husband and wife, it may be said that the purpose of the marriage relationship is being carried out. Public policy requires such a holding."

In other words, Mrs. McGuire would have to leave her husband before a court would enforce the right of support to which her marriage supposedly entitled her.

Q. *Isn't a husband legally required to support his wife at a level appropriate to his income?*

A. By law, a husband is required to support his wife and family. As long as the essentials (food, clothing, shelter) are provided, no matter how meagerly, the wife has no recourse unless she sues for divorce.

Courts have chosen not to interfere with an existing marriage, so that there is no legal way a wife can force a husband to increase the level of support beyond the bare necessities: enough food, clothing, and shelter to enable her to survive.

THE CHOICE TO STAY SINGLE

Gloria Wolfe is an American Indian woman who decided at an early age that she would not end up poor and ever-pregnant like most of the women on her Wisconsin reservation. Strong-willed and intelligent, she saw education as her means of escape from poverty and dependency and soon became an excellent student. She loved books and, while her classmates began dating and often marrying in high school, Gloria read her way through her adolescence. She turned down an early marriage proposal, determined to go to college, be somebody and accomplish important things. Her college years were ones of exploration and challenge. While her female classmates, in her eyes, traded in their academic careers for engagement rings, Gloria finished graduate school, turning down another marriage proposal. Remembering her parents' stormy marriage and the women back at the reservation who were grandmothers at 40, she decided she "would be no man's servant" and set her goals on achieving her own identity.

Gloria became very successful in her career, continually taking on new responsibilities, advancing steadily, enjoying her work and moving into new and more challenging areas. In her early 40's, she feels happy, alive, fulfilled—and occasionally a little lonely. She had been repressing her need for serious male companionship, seeing it as a threat to her independence, but now she thinks of herself as secure, strong and independent. She would like a warm, meaningful relationship with a man, but says it is "not high on my priority list."

She is happy with her life, with her decision to carefully plan her goals and successfully accomplish them. She is astounded at the way most people "bumble along through life," how women can get married without thinking of how that marriage might tie down their own lives, how they fail to take adequate precautions for birth control and then are surprised when they get pregnant. "I'm not saying I have the perfect life," she says, "But at least I chose my problems."

"When we were married, we took a leap in the dark... There were grave contradictions in my own feelings. In the end I acted on this impulse: jump in–you'll manage to swim."

KÄTHE KOLLWITZ (1867-1945)
Diaries and Letters, 1916

SUCH HIGH HOPES

Sonia had married at age 17, on the threshold of her new life in the land of opportunity. She had only been in the United States a few months. It had taken her mother, Dominga, who was the first of the family to immigrate, two lonely years of hard work in Wisconsin to save the money for the legal documents that allowed Sonia to enter the country and for them to be reunited. Sonia's English was not too good as yet, but she had high hopes.

Miguel at 18 was receiving aid to go to school. He was also a recent immigrant and missing the familiar comforts of home. He was greatly attracted to once again becoming part of a household where he could be understood, catered to, provided cooked meals and laundered clothes. Being of marriageable age, it did not occur to Sonia to refuse his offer when he proposed.

After a whirlwind courtship, they were married.

Within a year a baby was born, Miguel's financial aid to study ran out, and he left town. He did not say that he was leaving or where he was going. He just walked out and Sonia has neither seen nor heard of him since. Sonia is still legally married.

She and her mother balance their daily schedule so that when one is out working the other one is home with the child. Dominga works from 4:00 p.m. to 1:00 a.m. as a janitor. This allows Sonia to split her days between part-time maid work and studying English.

Each evening Sonia cares for her three-year-old daughter. She worries a lot. She would like her husband to come back yet she fears his return. What if he should come back and want to keep their daughter? Couldn't he just take her away with him? Sonia believes a man has the right to do what he wants with what is his, but that doesn't stop her from being afraid. Meanwhile, there is the relentless daily round of cleaning, working to make ends meet on the minimum wage, taking her turn on the child-care shift and trying to conserve enough energy to study and learn English in order to provide a better life for her daughter and for herself.

THE MEANING OF THE RIGHT TO SUPPORT

The Story of Maria Fagan

While Maria Fagan was in a New Jersey hospital for the birth of her sixth child, her husband, James Fagan, deserted her. Maria had no job, no job skills, and six young children to provide for. When James did not respond to the hospital's bill for Maria's treatment, the hospital demanded that she pay. She refused, arguing, "The bills are in my husband's name. I never agreed to accept liability for payment. At the time I was hospitalized, my husband and I were living together, and he was responsible for my support. Providing support clearly includes paying for necessary medical care."

The hospital wanted its money, and in 1972 sued Maria. The court agreed with Maria that payment of her medical expenses was her husband's responsibility–but ruled that she was liable if her husband wouldn't pay. The old rule which makes the husband exclusively liable for his wife's "necessaries," said the court, depicts women as 'weak and dependent with no recognition of their individuality.' So the court, ostensibly aiding women in their struggle for social and economic equality, severely limited the use of the doctrine of necessaries and thus effectively eliminated the one inadequate protection left to a woman who in good faith had

"Menial employed servants were available only to a minority of the pre-industrial population; the servant-wife is available, democratically, to almost the entire present male population."

JOHN KENNETH GALBRAITH (1908-)
The Economics of the American Housewife, 1973

fulfilled the traditional role of wife and mother.

The plights of Lydia McGuire and Maria Fagan were certainly extreme. But was their dependence on the man in their life so unusual?

Here is the story of a Wisconsin woman and her rude awakening to the economic facts of her life.

WHAT ARE A WIFE'S SERVICES WORTH?

They Smiled at My Naivete

"It was not until my husband came into a small inheritance and we decided it would be wise to make out our wills for the protection of our under-aged children that I discovered that what I had considered to be 25 years of mutually and equally working and struggling to raise our five kids and obtain a little security had been, in the eyes of the law and society, not an equal or equitable struggle at all.

"Married in the late 1940s, and living in the Fox River Valley, neither my husband nor I questioned our roles or the division of labor. He would learn to be a mechanic and pay the bills. I would have the babies, clean the house (when we had one), and raise the kids.

"It worked out that way. He crawled under cars and learned what they were all about. I had babies, changed diapers, cooked the meals. In the evening we dreamed and planned for an easier future. All in the American way.

"When the oldest started college and the youngest kindergarten in the same year, the financial strain began to tell. I went out to work at a low-paying job. To save the breadwinner's ego, we both pretended it was an opportunity for me to 'grow,' now that all the kids were in school. We both knew we needed the money. Little as it was, it bought school clothes and an occasional night out.

"I was good at what I did and yearned for more education. Just about that time the inheritance came. And then reality crashed in.

'The struggle was no longer *ours*. 'His' money was not going to go for 'my' education.

"I realized then that with the inheritance invested in his name (and with very little insurance) I would have a difficult time raising the rest of the kids if he died without a will. I was still unaware of the full implication of my 'worth.'

"We went to see a lawyer and discussed setting up a trust for the younger children. We named each other beneficiaries in our individual wills. We chose a guardian for the younger children in case of simultaneous death. The next step was to ascertain our assets.

"I knew the $30,000 inheritance was my husband's, but I was not prepared for what followed. Home, $15,000-my mother had given us $2,500 as a down payment. That could be considered mine. The remaining $12,500, was considered his. Savings, insurance policies, furnishings, car, totaled $11,000. Of the savings, $100, which I had earned for the sale of a magazine article, could be considered mine. The remaining $10,900 was considered his.

'What,' I asked, 'about the money I've been earning for the last seven years?'

'Did you save that?' the lawyer asked.

"Since that money had already been used for household expenses, it could not be counted, he said. I countered that if I had not contributed my earnings for family expenses, my husband would not have been able to save.

"They both smiled at my naivete. Women don't understand these things, they implied. I asked then about my years spent in running his home. Suddenly, even to me, it was his home. For that, apparently, I had received room and board.

"I was getting excited. Women do. But both assured me it was 'only a legal technicality.' They knew and I knew, they assured me, that what was his was also mine.

"Legally, however:

Husband's assets	$53,400
Wife's assets	2,600
Total assets	$56,000

"Since the $2,500 was a gift from my mother, my 25 years of working, sharing, and struggling together in the American way was worth, in the American way, $100."

"The most important and indispensable work of women, that of bearing and rearing children, and keeping house for them, was never paid for directly to the woman but always through the man and so many foolish people came to forget that it was work at all, and spoke of Man as The Breadwinner.

"He who pays the piper can call the tune."

JOHN RAY (1627-1705) *English Proverbs*

LETTER TO THE COMMISSION ON THE STATUS OF WOMEN

May 5, 1978

I have just finished reading two pamphlets: *That Old American Dream and the Reality*, and *Wisconsin Women and Credit*.

Since I'm on the verge, personally, of developing an ulcer over the topics discussed, I would like to know: what (if anything) is being done, or can be done to get legal marital property reform?

My example *is not* exaggerated. I have been married almost 28 years. We have five children: two are married, one, 23-years-old, lives at home but supports himself, one is graduating from college in a few weeks, and one 15-year-old is at home. Just the last four years I have worked part-time at a library earning the large sum of $2.65 per hour. However, I enjoy my work, and like seeing and talking with other people very much.

Recently, I asked my dentist for an estimate to repair my teeth (several are missing, etc.). I've postponed it until now because of finances. Now I'm 46 years old, and it's either get them fixed, or lose them. *To me*, this is very important! The estimate is $1,500.00. So, I went to a bank to ask about a loan (My mother and father banked there, and my brothers do. All have had good repayment reputations.) I have had two small loans from this bank in the past, and repaid them and was never delinquent. However, this time the banker said, "Sorry, you will have to put up some *collateral*." That's when the unfairness of marriage really hit me! I thought to myself, "My God, I don't have anything. Everything my husband and I own is in both of our names, or in his alone. He decides–dictates–and I dutifully do as I am told."

Upon discussing the cost of this dental work, my husband decided it was very unreasonable. However, I don't decide what the dentist must charge. His material and labor costs go up every year and his estimate is the most reasonable of three dentists I have talked with. He works on a cash basis because he is in need of money to operate, and I can't blame him for that. The fact is, I know I could repay a loan of that amount, but, unless my husband consents to either get the loan for me, or go with me and co-sign it, I cannot have my teeth repaired. If I wait and try to save that amount, I may not have the teeth to work with.

These laws are certainly very unfair to women–and I feel I've worked 28 years for *nothing!* Men still dictate and run the world their own way, and it is grossly unfair.

If there is anything I can do to help change or reform these laws, please advise. Maybe my two daughters will benefit from it someday. The "dark ages" for women are still very dark in this department–and I mean this firmly and honestly.

Sincerely,
A Northern Wisconsin Woman

Mrs. Budney's Savings

Laura and William Budney were married in 1921. William supported the family through his work as a manual laborer; Laura was the homemaker. Each week, William turned his earnings over to Laura, who paid the bills, purchased household supplies, and saved a little when she could.

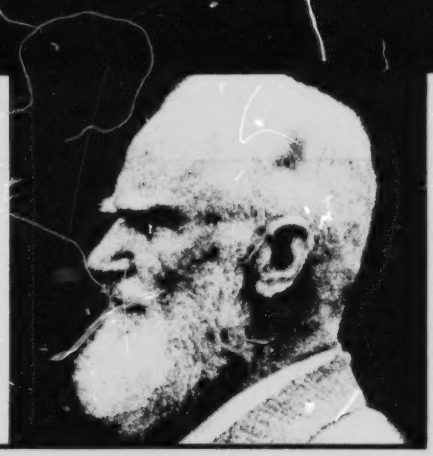
Laura didn't trust banks. She squirreled the savings away in odd places around the house–the proverbial cookie jar, her dresser, her sewing cabinet, and numerous other places. When she died in 1955, Leone, her daughter from a previous marriage, and William found more than $7,000 tucked away in small bills.

Laura had not made a will. Under the law some of the money–if it *was* her money–would go to her daughter. William Budney wanted it all. He argued, "All that money came from my paycheck. I never gave it to her to keep. Anything left over belongs to me alone."

The court agreed with William. Since Laura had not worked in paid employment during the 33 years of her marriage, clearly the money was not hers. Since William stated he had not intended to make a gift of any of the money to his wife, there was no gift. Laura's frugal saving gave her widower a windfall; not one cent of the money was considered hers to pass on to her daughter.

This was nonsense. From first to last the woman's work in the home was vitally necessary to the existence of society, whilst millions of men were engaged in wasteful or positively mischievous work, the only excuse for which was that it enabled them to support their useful and necessary wives..."

G. B. SHAW



Mrs. Rasmussen's Estate

As recently as 1966 another Wisconsin court made a similar finding in a dispute over who owned two modest savings accounts held in the Oshkosh Savings & Loan Association.

Margaret and Harold Rasmussen, like most people married in the forties, chose a traditional relationship: Harold brought home the paycheck, while Margaret remained in the home to care for their sons Eric and Ky. Each week, Harold turned his paycheck over to Margaret; she did the family's bookkeeping, paid the bills, and rationed out the money for household and personal expenses.

The Rasmussens didn't have much money. For most of their married life, they lived with Mrs. Rasmussen's mother, not even able to afford a home of their own. But Margaret believed that her boys should go to college, and she managed to save a little here and there for their education. She economized in all the little ways in which a housewife can economize. Occasionally, her mother made a donation to the college funds. Slowly, but surely, two savings accounts grew.

Margaret Rasmussen died in 1963, when her sons were teenagers. She left a savings account of nearly $2,000, which she held in trust for Ky, and another of more than $3,000, which she held in trust for Eric.

Harold Rasmussen remarried and moved out of his mother-in-law's house. $5,000 seemed like a lot of money to him. He wanted it, and he went to court to get it. "I earned that money," he argued, "and I never gave it away. I merely entrusted it to Margaret to pay the bills. The surplus belongs to me." The court agreed–despite the fact that there would have been no surplus without Margaret's careful economizing, despite the fact that Margaret's mother had contributed some of the funds. "The general rule in separate property states," said the court, "...is that the excess left after paying the joint expenses of...the family remains the property of the husband..." The boys' college money went to Harold and his new wife. Margaret's long years of scrimping and saving were an exercise in futility.

But what if family savings were the direct result of a wife's paid employment? Read the true story of Jane Wirth.

A Wife's Right to Her Earnings

Jane and Edward Wirth were married in 1948. Throughout their 22-year marriage, both Jane and Edward held jobs. At first, they pooled their earnings to support themselves and their two children. Beginning in 1956, they embarked on a rigorous savings program, investing all of Edward's earnings for their joint future use and paying daily expenses from Jane's wages, supplemented by rental money from an apartment they owned and occasionally by small sums from Edward's income. This arrangement continued for 14 years. Edward managed the investments, which were made in his name alone.

In 1970, Jane and Edward were divorced. Edward claimed that the family home and all other investments made as part of the savings program belonged to him alone, since they had been bought with his earnings and were held in his name. Jane was horrified. "All along, you said these savings were for the two of us," she told him "I would have saved some of my own money during all these years if I had thought you intended to leave me out in the cold. And you couldn't have made all these investments if I hadn't taken on your legal responsibility to support our family. I'm too old to start over. I need my share of our savings."

Edward refused to listen, so Jane took him to court. She asked for half of the savings or, alternatively, for reimbursement of the money she had spent from her own pocket to support the family. The court denied both requests. It held that Jane and Edward's intention to save the money for both of them was not enough to give Jane a legal right to any part of the money. Furthermore, the court ruled, although a husband has a legal duty to support his wife and children and the wife may recover money she had expended for necessities, a wife who uses her own money to pay household expenses may obtain reimbursement from her husband only when he has promised to repay her. Since Edward had made no such promise, Jane was not entitled to reimbursement.

By its ruling, the court permitted Edward to reap all the benefits from 22 years' evasion of his marital responsibilities, while Jane was

"In our society, the husband is assigned a superior status. It helps if he actually is somewhat superior in ways–in height, for example, or age or education or occupation–for such superiority, however slight, makes it easier for both partners to conform to the structural imperatives. The girl wants to be able to 'look up' to her husband, and he, of course, wants her to."

JESSIE BERNARD (1903-)

severely penalized for her cooperation in what she believed was a joint enterprise.*

The children of Mrs. Budney and Mrs. Rasmussen inherited nothing from their mothers' savings and the Fox River Valley woman found that by a "legal technicality" her work inside and outside the home, over a 25-year period, had earned her just $100. Current Wisconsin law explains why:

> The individual earnings of every married woman, *except those accruing from labor performed for her husband, or in his employ or payable by him* shall be her separate property and shall not be subject to her husband's control or liable for his debts.
>
> (*Wisconsin Statutes*, 246.05) (emphasis added)

The lesson is that during marriage a husband is entitled to all profit from his wife's labor performed in their mutual enterprise or in their home, and a woman *by law* is not entitled to profit from any of her own labor performed as a wife.

That lesson was costly to two other Wisconsin couples, one working a farm and the other operating a small business. Both of these couples considered themselves equal partners engaged in joint ventures, and therefore split their incomes equally on their Wisconsin state income tax returns. The tax authorities said that the wives could not claim any of the income, that it all belonged to the husbands, and that more tax was owed. The state Supreme Court agreed, in both cases. Here are their stories.

*New York Law, unlike Wisconsin Law, did not allow the divorce court to divide property held in the name of one spouse alone.

Two Wisconsin Couples Who Were Denied Equal Partnership

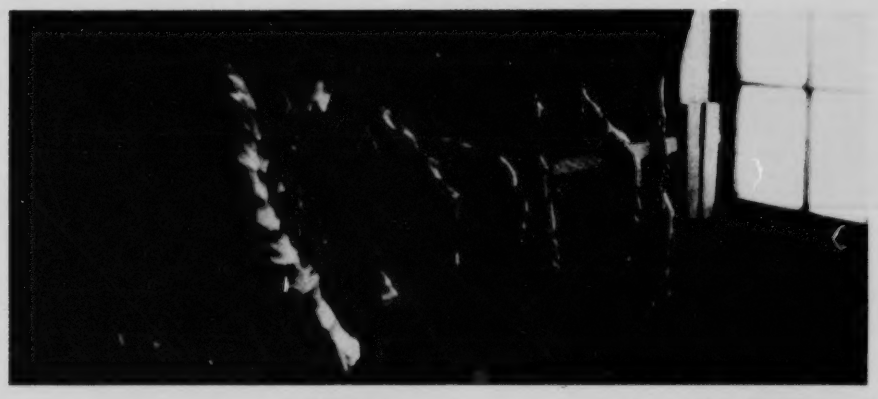
The farm couple, Eugene and Ellen Skaar, were married in 1942. After Eugene returned from military service in 1945, they began farming. They purchased their land as joint tenants, and worked it together. Ellen did a substantial amount of the farm labor –probably more than Eugene did, since he was active in community affairs and his official duties often took him away from the farm. Twice a day Ellen helped to milk and feed their cows; she took care of chickens; baled hay; planted, harvested, and stripped the tobacco crop; and drove the tractor. Her farm work usually took her about 12 hours per day.

All the Skaars' financial dealings were handled through one joint checking account. All farm expenses were paid from that account, and all income–primarily the milk check, which was made out to both Eugene and Ellen–was deposited in it. Eugene and Ellen had an oral agreement that they would work together, make farm decisions together, and manage the farm jointly. For many years, they proceeded with this arrangement, always abiding loyally by their agreement.

In the late 1960s, the Wisconsin Department of Revenue audited the Skaars' tax returns. It challenged their assertion that they were partners in a joint enterprise and that half their income belonged to Ellen. (More tax was due, of course, if the income was all Eugene's.) The Supreme Court agreed with the Revenue Department that there was no partnership and that all the income had been earned by Eugene. The Court's decision was based on the fact that the Skaars had not entered into a written partnership agreement and had not (on their accountant's advice) filed business partnership tax returns. Additionally, their financial records (which Ellen

"Marriage never will cease to be a wholly unequal partnership until the law recognizes the equal ownership in the joint earnings and possessions."

SUSAN B. ANTHONY



Ellen and Eugene Skaar

kept, along with her other farm duties) did not reflect any division of profits resulting from the farm operations.

The judge said:

"Joint tenancy in land or the sharing of gross returns from the land do not of themselves constitute a partnership. The husband is entitled to the services of his wife performed for him in the conduct of his business and the profits thereof derived are therefore not her separate property..."

So, despite the Skaars' understanding and intentions, under Wisconsin tax law the result of their joint efforts belonged to Eugene alone. Ellen earned nothing for herself in the more than 20 years she worked 12 hours daily on their farm.

In 1974 Bernard and Marie Stern found themselves in a similar predicament. They had started a small business, the Rhinelander Decorating Company, in 1958. Initially, each of them invested about $3,500 in the business; Marie's share came from her separate earnings and a small inheritance. The title to the business building was in both their names; both could and did write checks on the company account. The statutory selling permit listed both Bernard and Marie as owners. Both signed the notes for business loans.

Marie spent full time at the store, handled all sales, and did all the interior decorating consulting. Bernard was rarely at the store, but did all of the wallpaper hanging and carpet laying.

The Wisconsin Department of Revenue audited the Sterns' tax returns in the late 1960s and disputed their characterization of their business as a partnership. It claimed that all the income belonged to Bernard, and that tax was owing. Again, the Supreme Court agreed with the Revenue Department's contentions, finding that no partnership existed because the Sterns had not made a written partnership agreement and their accountant had not filed business partnership tax returns or divided the profits in the firm's financial records. Marie Stern, like Ellen Skaar, earned nothing of her own in her many years of daily labor in the family business.

"Like everything else, insurance is sold only to income producers. The unpaid housewife is out of luck. Insurance companies... regard women as hazardous and expensive risks. Consequently, no disability insurance is written for housewives. I regard this as a most serious form of economic discrimination."

Money

Q. *My husband is a spendthrift. He buys anything and everything he wants. I often skimp on meals and clothing because he is always going over our budget. Is there anything I can do legally to get him to live within our budget?*

A. No, unfortunately. He can spend the income he earns as he pleases; so long as he provides you with the bare essentials (food, clothing, and shelter). Trying to educate him in money matters is probably the best solution for the time being. Your only legal remedy is legal separation or divorce.

Q. *My husband is very stingy, and gives me only enough money to buy groceries. He makes a good income and has a camper, two snowmobiles, and a motorcycle. Is there any way I can get him to give me an allowance for myself?*

A. Unless you can persuade him, the answer under present law in separate property states is No. Courts have chosen not to interfere in an existing marriage, so there is no legal way a wife can force a husband to increase the level of support as long as she has food, clothing, and shelter which enable her to survive.

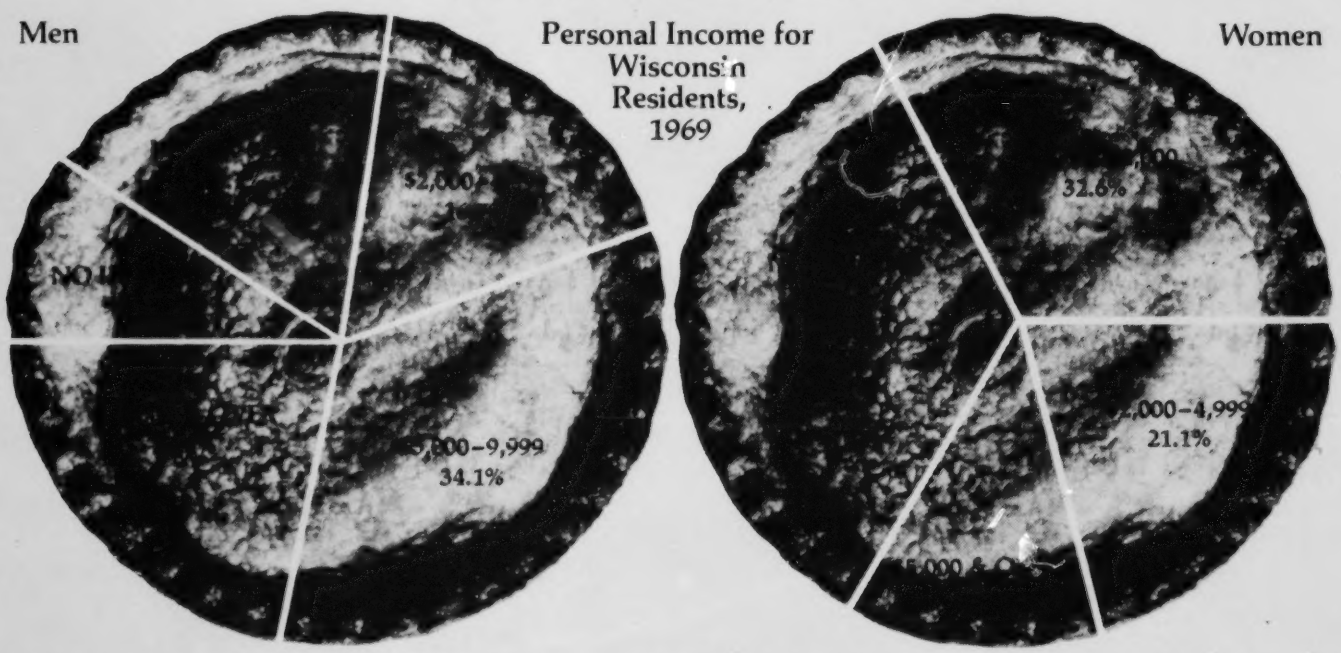
Q. *Am I responsible for my husband's debts?*

A. No, you are not legally responsible for your husband's debts unless you signed for them. If you cosigned for a loan and the loan is still outstanding, your responsibility continues until it is paid in full.

Q. *My husband will not tell me what our financial situation is. He just has me sign a blank income tax form every year. How can I get him to tell me about our financial standing?*

A. Signing a blank tax form is a very bad practice. YOU as well as your husband are legally responsible if

MANY WISCONSIN WOMEN EARN NONE



The fact that in 1969 two-thirds of all Wisconsin women had **no** personal income or earned less than $2,000 reflects the high proportion of women who were not paid for services contributed to their families.

Source: U.S. Census of Population, 1960 and 1970, U.S. Bureau of the Census

Schlesinger Library, Radcliffe College

ESTHER PETERSON
June 27, 1974, Platteville, Wis.
Conference on Homemaking and the Family,
Sponsored by the Commission
on the Status of Women

there are errors, fraudulent statements or nondisclosures in your joint tax return. Punishment can range from payment of back taxes with interest and penalties to prison sentences. No woman should EVER sign a blank form or a form she doesn't understand.

Your husband may be persuaded to share financial information with you if you explain this. Otherwise, you can contact the federal Internal Revenue Service, or your state Department of Revenue. For a small processing fee it will give you a copy of your completed joint income tax return.

Homemaker's Insurance

Q. *Since my husband travels extensively, we would like to buy some kind of insurance for me, so that if I were seriously ill, we would have a fund to hire someone to come in to do the housework and take care of the children. Is this kind of insurance available?*

A. Few insurance companies have disability insurance policies for homemakers. This is because many companies feel that they have no way of telling whether a homemaker is really disabled or is just pretending to be ill in order to get the money and not do the housework. This fear of paying women to sit at home is probably based on the (predominantly male) perception of a home as a haven to retreat to after the day's work is over, rather than as a place to wash windows, vacuum carpets, scrub floors, clean toilets, prepare meals and do laundry. In reality, ascertaining disability should be no more problematic for homemakers than for other workers; the same certification by a physician could be required.

Credit

Q. *Will I be considered a bad credit risk because my husband piled up a lot of debts?*

A. You cannot be refused credit on the basis of your husband's poor credit history or rating unless you also signed for the loans or you had joint charge accounts. What matters in determining whether or not *you* are creditworthy is whether you can establish your own ability to repay by demonstrating that you have your own separate assets or income and that you have a credit history which indicates there is a good likelihood you will repay future loans.

Q. *If I get married do I have to reapply for credit?*

A. Lenders are forbidden to force you to reapply for credit when you get married without evidence that your ability to pay has been altered. You may be required to supply additional information if you want your husband to be a user of your account.

Q. *May a lender disregard my income when my husband and I apply for a mortgage or loan?*

A. No. A creditor must consider the full combined income of husband and wife. However, in the case of part-time employment, the federal law allows the creditor to consider whether the income will continue.

Q. *May a lender ask for information about my husband or ask for his signature?*

A. Not if the purchase or account is for you alone, is without "security" and is based on your independent income. Major loans requiring security, such as a car or a house, are subject to special rules and signatures may be required of both spouses.

Q. *As a full-time homemaker, I have credit cards of my own, with my name on them–Mrs. James McElroy. I am perfectly happy with this. Why is there so much fuss about credit for women, anyway?*

A. True, you are able to use your credit cards but they are almost certainly issued to you on the basis of your husband's income or assets and his continued willingness to allow you to charge items against his accounts. You can double check by comparing the account number on your card with the number on your husband's card. If the numbers are identical, you are using *his* credit. Things should be fine until there is a death, divorce or difference of opinion.

Q. *My marriage is happy but I would feel safer if I could establish my own credit in my own name. How do I begin?*

A. Since credit is based on the borrower's ability to repay, married women in separate property states who have no independent source of income or no assets in their own names are generally unable to obtain

DOONESBURY by G. B. Trudeau

AND NOW, HERE'S NICHOLE, WBBY'S ALTERNATE LIFE STYLIST!
GOOD MORNING, AND HAVE I GOT A TIP FOR YOU! WOMEN WHO RUN A HOUSEHOLD! IT'S CALLED "TRADE-A-MAID" AND HERE'S HOW IT WORKS!
HOUSEWIFE A AND HER BEST FRIEND, HOUSEWIFE B, SPEND WEEKDAYS CLEANING EACH OTHER'S HOME. THEIR RESPECTIVE HUSBANDS PAY FOR THEIR SERVICES, JUST AS THEY WOULD FOR THOSE OF A FIRST-CLASS MAID.
SEVERAL BENEFITS ACCRUE. FIRST, THE HUSBANDS GAIN A SENSE OF THE REAL VALUE OF HOUSEHOLD WORK, AND THEIR WIVES GAIN THE SATISFACTION OF CONTRIBUTING TO THE FAMILY INCOME!

credit in their own names. If you have your own source of income or your own assets, however, you can establish a financial identity by opening checking and savings accounts in your name only (Mary Jones, not Mrs. John Jones). After the accounts are opened, you may begin establishing credit by opening a charge account in your name at a retail store that subscribes to the main credit bureau in town. List only your own income, assets and liabilities. The more information you supply to lenders relating to your creditworthiness the more easily lenders can realistically assess your ability to repay. Since your credit history will reflect the use of such an account, you must use the account and pay the bills promptly in order to maintain a good credit record. If you meet the basic requirements, you may want to apply for a bank credit card such as Master Charge or Visa or an automatic overdraft loan plan in conjunction with your savings account.

Inheritances

Q. *I was left a small inheritance which I invested in my own name in 10-year savings bonds. These have now matured, and I would like to use the money to buy a large loom and an electric kiln because my hobbies are weaving and pottery. However, my husband says that I have no right to spend this money on myself and that I cannot do so without his consent. I tell him that it is my money and that I can do with it what I like. Am I right?*

A. You are correct if the bonds are held in your name alone. Any inheritance or gift a wife receives is hers to use as she sees fit. By the same token, gifts or inheritances received by a husband are his to do with as he pleases. If you wish to retain sole control over your own money, be sure to bank or invest it in your name only.

On Wills

Q. *What difference does it make whether my husband has a will or not? Won't I get everything anyway when he dies?*

A. Surprise! No, you won't. If your husband leaves no will, you may get a temporary family allowance ...and you will be allowed to select a limited amount of personal property during the administration of your husband's estate. Then the creditors are paid. If you and your husband have no children, and if he has no descendants from any previous marriage you get the rest. If you do have children, you receive the first $25,000. If you have one child, you get half the balance. If you have more than one child, you get one-third and the children share the rest.

Q. *I am concerned that neither my husband nor I has a will, and we have two grown children and two young children who live with us. I have always heard it is a good idea to have a will, but my husband says it's not worth paying a lawyer a fancy fee for. What are the facts?*

A. Frequently, married couples prefer that the surviving partner should have control of all the family assets especially where money is tight and the survivor is responsible for bringing up young children. In your situation, if you live in Wisconsin and either of you were to die without a will, the surviving partner would receive only one-third of the other's estate, plus $25,000. The rest of the estate would be shared equally between your children.

Wisconsin law also requires that a guardian be appointed for the property of a minor child who receives real estate, or more than $1500 worth of personal property, from the estate of a parent who has died without a will. Ordinarily courts appoint the surviving parent as guardian of the child's estate but any such guardian must post a bond and make an annual accounting to the court.

Another reason most experts recommend having a will is that property can be transferred in such a way as to realize the maximum savings on death taxes so that survivors are left with a larger estate.

Lastly, you may wish to designate the guardian of your choice for your children in the event that something should end both your lives before they are grown.

In any event, it is important for homemakers and their husbands to read or study estate planning so that they can dispose of their property in a way that will meet their objectives. After deciding what they want to achieve they should consult a lawyer.

SECONDLY, AND JUST AS IMPORTANTLY, BOTH WOMEN BECOME ELIGIBLE FOR SOCIAL SECURITY BENEFITS. LASTLY, THEIR CLEANING EQUIPMENT CAN BE DEDUCTED ON THEIR TAX RETURNS. BACK TO YOU, MARK.
2-20

Q. *My husband tells me that he has made out a will, but won't tell me what is in it. So far as I know, all of the property we own is in his name. I am concerned about my future, because I have no income or property of my own. What can I do to persuade him to tell me what he has done in his will?*

A. The making of a will is a private matter. No one–not even your spouse–has a legal right to see what is in your will without your consent. By the same token, you have no right to see your husband's will if he chooses not to disclose its contents to you.

Q. *My husband is becoming a bit senile. He has been retired for eight years, and is seven years older than I. When he disapproves of something I do, he tells me that he will rewrite his will and cut me off without a cent. Can he do this when we have been married for over fifty years and I have kept house for him all this time?*

A. Not in Wisconsin–at least not completely. If a widow or widower is dissatisfied with the will, she or he may "elect" to take one-third of the estate instead. But, in some situations, if there are substantial amounts of life insurance, joint tenancy property or property from other arrangements, you will not be allowed to "elect" against the will. In a few states, however, the situation is different. In Georgia, North Dakota and South Dakota a husband *may* completely disinherit his wife (or a wife her husband).

MOTHERHOOD AND SOCIAL SECURITY

Jean and Lillian* were best friends. They graduated from high school together during the depression. After a couple of years of unemployment, they both got jobs as beginning typists at a state agency in 1933. Wages were very low at that time, and the annual salary for an assistant clerk typist was $900. After a few years Jean married, but she continued to work because in 1941 her husband was drafted into the Army. Lillian remained single. At the end of the war, Jean stopped working to stay home and raise a family. Lillian eventually married, too, but she and her husband had no children, so she continued her employment, progressing through the civil service ranks to become a senior typist and later an administrative secretary.

In 1968, Jean decided to go back to work to bring in a little more money. She had stayed home for 23 years, until her youngest child was almost out of high school. She went back to the state as an intermediate level typist, and after a few years was promoted to a senior level typist. In 1978, Jean and Lillian turned 65 and decided to retire. Lillian, who had worked without a break since 1933, was told by the Social Security office that her estimated monthly benefit would be $435.10. When Jean inquired about the benefit she could expect to get, the Social Security office estimated that her monthly payment would be $293.30.

Why such a big difference? Jean took years off to be a fulltime mother, and the social security system gives no credit for work in the home. Your social security benefit depends on a number of factors–the year in which you were born, the age at which you retire, and the size of the salary you earned. Since Jean and Lillian were born in 1913, and are retiring at age 65, they must average their 19 highest years or earnings. Since Jean returned to work in 1968, she only had 10 years of earnings after she came back. So, she must go back to her pre-1945 employment and include several low-paying years in order to make up her required 19 years total. She also lost out because her long absence from the work force meant she missed opportunities for promotions and improvements in grade.

Your social security benefit would depend on your own individual work history. You would have to consult your local Social Security office to have your benefit calculated.

*Jean and Lillian are not real people. Their hypothetical benefits, however, were based on actual pay scales for clerical work and the formula actually used by Social Security offices.

"When motherhood becomes the fruit of a deep yearning, not the result of ignorance or accident, its children will become the foundation of a new race."

MARGARET SANGER (1883-1966)
Women and the New Race, 1920

Margaret Sanger

PERSONAL RIGHTS IN MARRIAGE

A High Risk Mother's Story

"Because of Rh problems with our first child, I was told to anticipate more serious difficulties with a second pregnancy. My second pregnancy, therefore, was monitored almost from conception by an obstetrician affiliated with a general hospital which specialized in Rh pregnancies. Blood titers were first determined each week; then, beginning with the fifth month of pregnancy, the doctor began amniocentesis, a method of inserting a needle through the uterine wall to obtain amniotic fluid. This procedure was done every two weeks in the hospital at which time I was admitted to the maternity unit for a half day.

"This was not a pleasant experience. Sometimes the needle would have to be inserted as many as nine times to obtain sufficient fluid. I was very nauseated after each procedure and came to dread these biweekly appointments.

"In addition to the Rh difficulties, I developed phlebitis in my left leg and then had to be operated on for a bowel obstruction when I was six and one-half months pregnant. It was because of these series of complications and the anxiety we were experiencing over the welfare of our unborn baby that my husband and I decided not to have any more children.

"Without the means to prevent, and to control the timing of conception, economic and political rights have limited meaning for women. If women cannot plan their pregnancies, they can plan little else in their lives..."

ALICE ROSSI (1922-)
The Feminist Papers, 1973

"During the last trimester of my pregnancy it became apparent that the fetus was becoming severely anemic and would soon suffer brain damage and eventual death. My doctor decided to induce an early delivery and hope the fetus was mature enough to survive, rather than attempt an intrauterine transfusion. Since there was a possibility that delivery could not be induced, we discussed the alternative of a Caesarean section and my desire to have a tubal ligation. As we talked about the possibilities, I realized that I was forced to make a choice of going to a hospital that offered intensive care for high risk newborns or to a hospital that offers sterilization to those mothers who deliver these high risk infants!

"Although my doctor felt that it was extremely unwise for me to have any more children, he was threatened with a loss of his hospital privileges at St. M's Hospital if he performed a tubal ligation for me–even in the event of a Caesarean section. Since he felt that the baby was in danger and that there was a significant advantage in delivering where the baby could be attended to immediately, I delivered at St. M's hospital. After 13 complete blood exchanges, nine days of fear and worry, a hospital bill in excess of $7,000, and no sterilization for me, we took home our second son.

"I mention the details of our experience, not to be dramatic, but to illustrate that by all medical standards we were justified in our decision to limit our family to two children. Sterilization is the simplest and most effective means of doing so. Women who deliver high risk infants are perfect candidates for sterilization and should have that option available to them. In the practice of medicine, surely the best interests of the patient should come first, not the religious beliefs of a hospital."

Many Wisconsin hospitals still put restrictions on or prohibit the performance of sterilizations entirely, even when, as in the true story above, the mother, her husband and her doctor are in full agreement that sterilization is the best solution.

Of course, a sterilization can be obtained later in another institution, perhaps in another town. But that means an additional hospitalization and the woman's exposing herself to an additional anesthesia and medical procedure with all the attendant financial costs, family disruption and medical risks.

The high risk mother who told her story above chose not to leave her new baby for another hospital admission during the very early months of its life. Her gamble lost. When her baby was six months old she discovered that despite her conception control efforts she was pregnant again. Unable to face another difficult pregnancy again so soon, she reluctantly chose what she had so deeply longed to avoid–an abortion.

Rape in Marriage

There has been no basic change in a husband's legal rights to his wife sexually since medieval times. What the Supreme Court of Louisiana said in 1899 still holds true today:

> If (the husband) were the one who forcibly, and against her consent, performed the sexual act upon her, there was, and could be, no rape. This is so because the husband of a woman cannot himself be guilty of an actual rape upon his wife, on account of the matrimonial consent which she has given, and which she cannot retract.

Since Wisconsin's sexual assault laws were reformed in 1975, a wife is considered to have retracted that consent when she legally separates or files for a divorce, as this newspaper story of a Waukesha man showed in July, 1977:

> A man accused by his wife of having raped her was convicted Friday of first degree sexual assault, a jury verdict which a prosecutor said should be a warning to all husbands under Wisconsin's new rape statutes.
>
> "Married women, at least those who desire to part company with their husbands, have no less of a right to refuse to have sexual relations with their husbands than they would have with a complete stranger," assistant district attorney Mark Gempeler said.
>
> The case was believed to be the first involving husbands and wives since legislators rewrote definitions of sexual assault and provided rights to estranged wives, Gempeler said.
>
> The Waukesha County Court jury deliberated seven hours before returning its verdict against the 50-year-old Brookfield businessman who faces penalties of up to $10,000 and 15 years in prison.
>
> The court was told the woman had been to dinner with another man who was having an early-morning drink at her home when the husband ordered him to leave, took snapshots of her in the nude and assaulted her.

Mother, what is marriage?
My child, it is to spin, bear children, and weep.

SPANISH PROVERB

A Wife's Body

Q. *Do I have a right to refuse sex? Sometimes I'm just not in the mood for it, and I know when my husband kisses me after dinner, that that's what he wants. Do I always have to agree?*

A. Under present law, your husband has the right to sexual access whenever he chooses to exercise that right. If in fact you refuse and he forces the issue you have no legal protection against the rape. You may bring charges of sexual assault against him only if you are legally separated or have already filed for divorce. As long as you are married the law considers you his sexual property.

If you have been married for any length of time you probably understand the kind of man to whom you are married and the consequences of refusal. Some men interpret refusal as rejection, others are more able to be considerate and accept postponement if their partner is feeling tired or ill.

Q. *My husband believes that it is wrong to use birth control devices, and says I am not to use any. We have a 1½ year old and I am pregnant again. Do I have a right to use birth control measures even though he says I may not?*

A. Yes. A wife does not need her husband's consent to practice family planning. You may visit a Planned Parenthood office in your community or another community, and after consultation with trained and sympathetic people, select a method which is best for you. The question of your husband's agreement is not a legal question, but a human one which you will need to work out carefully. Perhaps if your husband understands that you are thinking of the whole family situation, and of your ability to be a good wife and mother, he will understand how you feel and be willing to cooperate.

Q. *We have four children between the ages of two and eight, and I do not see how I can endure having another child, now or perhaps ever. I am exhausted all the time, and dread getting up in the morning. The only birth control method available to us is not failsafe. If I should become pregnant again, must I have my husband's consent to get an abortion?*

A. According to a 1976 U.S. Supreme Court decision, it is not necessary for a wife to have her husband's permission to obtain an abortion during the first three months, or first trimester, of pregnancy. During this time, the abortion can be performed at a clinic at relatively low cost, from $165 to $250. An abortion later is more expensive, requires hospitalization, and is much more difficult to obtain in most states.

On the Right to Stay Home...

Q. *My husband wants me to get a job so that we have more money to spend for vacations and some other things he wants. But I like being at home and cooking and baking and doing all the traditional things that women have always done. Do I have to go to work because he is the head of the household?*

A. No. Despite the fact that your husband is considered to be the head of the household, he has no legal right to require you to work outside the home.

Here is a brief newspaper report carried in *Parade*, September, 1976 of developments in Australia:

RAPE IN MARRIAGE Under legislation proposed by the Labor government in South Australia, women there will soon be empowered to charge their husbands with rape.

In most countries of the world it has long been held that a wife by tradition and law is bound to have sexual relations with her husband on demand.

"We don't hold with that old-fashioned nonsense here," says Attorney General Don Duncan, "that a wife must submit to sex with her husband whenever he wishes it. Our government believes that all laws which continue to treat a wife as property of her husband and marriage as a contract of ownership should be abolished."

"I do not know whether the world is quite willing or ready to discuss the question of marriage...I feel, as never before, that this whole question of women's rights turns on the pivot of the marriage relation, and, mark my word, sooner or later it will be the topic for discussion."

1853 LETTER FROM ELIZABETH CADY STANTON
to Susan B. Anthony

...Or Take Paid Employment

Q. *I'd like very much to get a job and work for pay. My husband says that he has the legal right to prevent me from doing so, and that the marriage contract says that I must take care of the children and manage the household. Does that mean I cannot have a part-time job?*

A. No. Your husband cannot legally prevent you from going to work for pay if you choose to do so.

On Keeping Your Own Name

Q. *My daughter plans to be married soon but tells me she won't change her name. Isn't it against the law not to take your husband's name?*

A. No. Your daughter need not change her name if she doesn't want to. No law requires married women to use their husbands' names–it is just a custom. In fact, anyone may use *any* name, so long as it is not used for fraudulent purposes. Married women who have used their husbands' names and wish to return to their own names should, of course, notify business and government agencies of the change, and, to make a clear public record, may petition a judge for a name change. The procedure is simple, involving only a notice in a newspaper and an informal hearing.

Elizabeth Cady Stanton

Marriage Contracts

Q. *We are getting married soon and want to make our own marriage contract. If we put it in writing and have it notarized, will it become a binding document?*

A. Wisconsin courts may enforce a carefully drawn, written contract that covers a *financial* agreement. An individual contract, even if written and notarized, to alter what the state considers the essential terms of the marriage relationship—which are the husband's duty to support and the wife's duty to provide homemaking, child care, and sexual services—will not be enforced by any court under present law. If you want to spell out your mutual financial obligations toward each other as well as your family role expectations, be sure to draw them up in two *separate* documents and remember that only the financial agreement can be considered enforceable.

"To be powerless, without social, economic or legal status; to be unconfident, dependent, insecure, and vulnerable– is to be female."

CHARLOTTE BRONTË

The Double Bind in Legal Aid

Q. *I am trapped in a terrible marriage. I have two young children, a two-year-old and a nine-month-old, and my husband treats me the way he says I deserve. He says he's going to keep me barefoot and pregnant. He makes a good wage at the factory but he drinks a lot and spends most of it after work in the bar with "the boys" while I stay with the children at home.*

The doctor says that because of my medical history I should not take the pill so I am deathly afraid of getting pregnant again and sinking in deeper. I would like to leave but where would I go with the children? I have no money of my own to get a divorce. If my husband would go and I could just stay here (the house is small and has real low payments) I think I could manage to earn enough to feed us by taking in other children. But he won't leave unless he has to and I have no money to get a divorce. Is there anywhere that I can go for help before things get worse?

A. Unfortunately, you're not eligible for free legal aid unless you live in one of the 28 counties served by Wisconsin Judicare. All other legal aid services in Wisconsin consider "family income" when determining whether a client meets their low-income requirements. No matter how poor you are, *you* will be considered ineligible for aid in obtaining a divorce from your husband because *his* income is above the poverty level. If you want a separation, you will have to leave home and apply for welfare. If you are granted Aid to Families with Dependent Children, you may or may not qualify for legal aid to file for divorce, depending on the circumstances and the agency. Meanwhile, as a condition of receiving AFDC, you will have to sign a statement giving the welfare department the right to collect court-ordered child support from your husband while you are receiving welfare.

WHERE THERE IS LEGAL AID IN 1978

Wisconsin Judicare (715-842-1681) is headquartered in Wausau, but does not serve Wausau or Marathon County. It serves 28 northern Wisconsin counties including Pepin, Eau Claire, Taylor, Lincoln, Shawano and Oconto and all counties to the north. It concentrates on civil law including welfare law, tenant-landlord relations, unemployment compensation, consumer law and Indian rights. It will not handle divorces unless there is a threat of violence in the family. It considers only the client's individual income to determine low-income eligibility for services.

Legal Action of Wisconsin, Inc. (414-278-7722), Milwaukee, concentrates on family law and takes all kinds of divorce cases. Its Madison office (608-256-3304) concentrates on other civil cases such as welfare law and will not handle divorces unless domestic violence is involved. Both offices determine financial eligibility by "family income" unless the client has been turned down by three private attorneys and otherwise qualifies. Other offices are in Rock-Walworth Counties and Racine-Kenosha Counties.

Legal Services of Northeastern Wisconsin (414-432-4645) is headquartered in Green Bay and serves Brown, Door and Kewaunee Counties and, as of July, 1978, Outagamie and Manitowoc Counties. It concentrates on family law but also handles other civil matters involving welfare law and tenant-landlord relations. It will accept divorce cases when they involve domestic violence, child welfare or economic emergencies which can be addressed by the divorce action. It considers "family income" to determine eligibility except when the client has been turned down by two private attorneys.

The Legal Aid Society of Milwaukee (414-765-0600), Milwaukee, concentrates on family law but also handles other civil cases. It accepts all types of divorce cases and considers family income unless the couple is separated. In those cases it determines financial eligibility on a case by case basis.

The above agencies serve only those who meet their low-income eligibility requirements, which differ from one agency to the next.

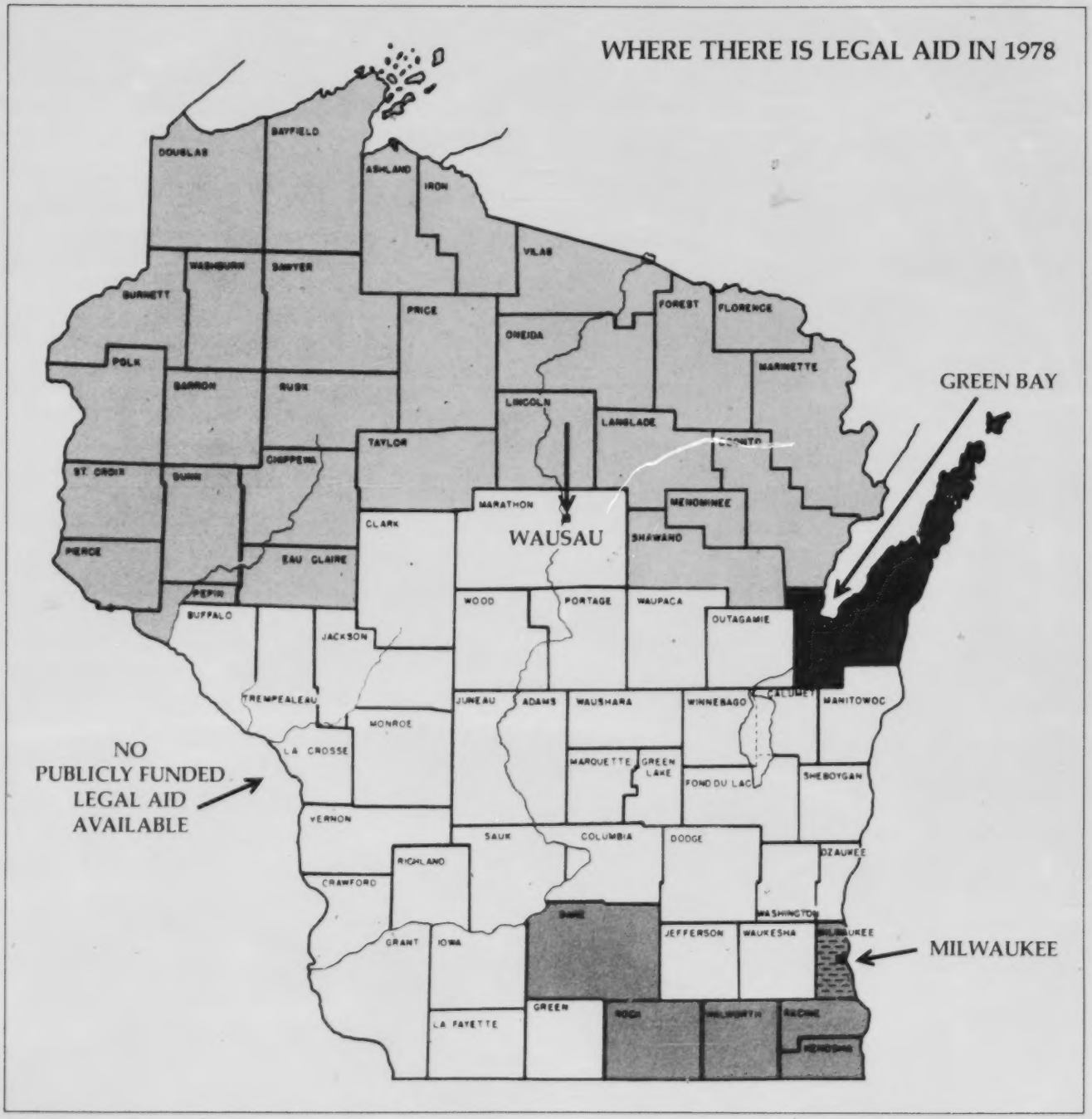
For those living in the 33 Wisconsin counties not covered by one of those programs, there may be a volunteer legal aid program. To find out about your county, call the county family court commissioner, clerk of courts or department of social services.

"Nature has given women so much power that the law has very wisely given them little."

DR. JOHNSON

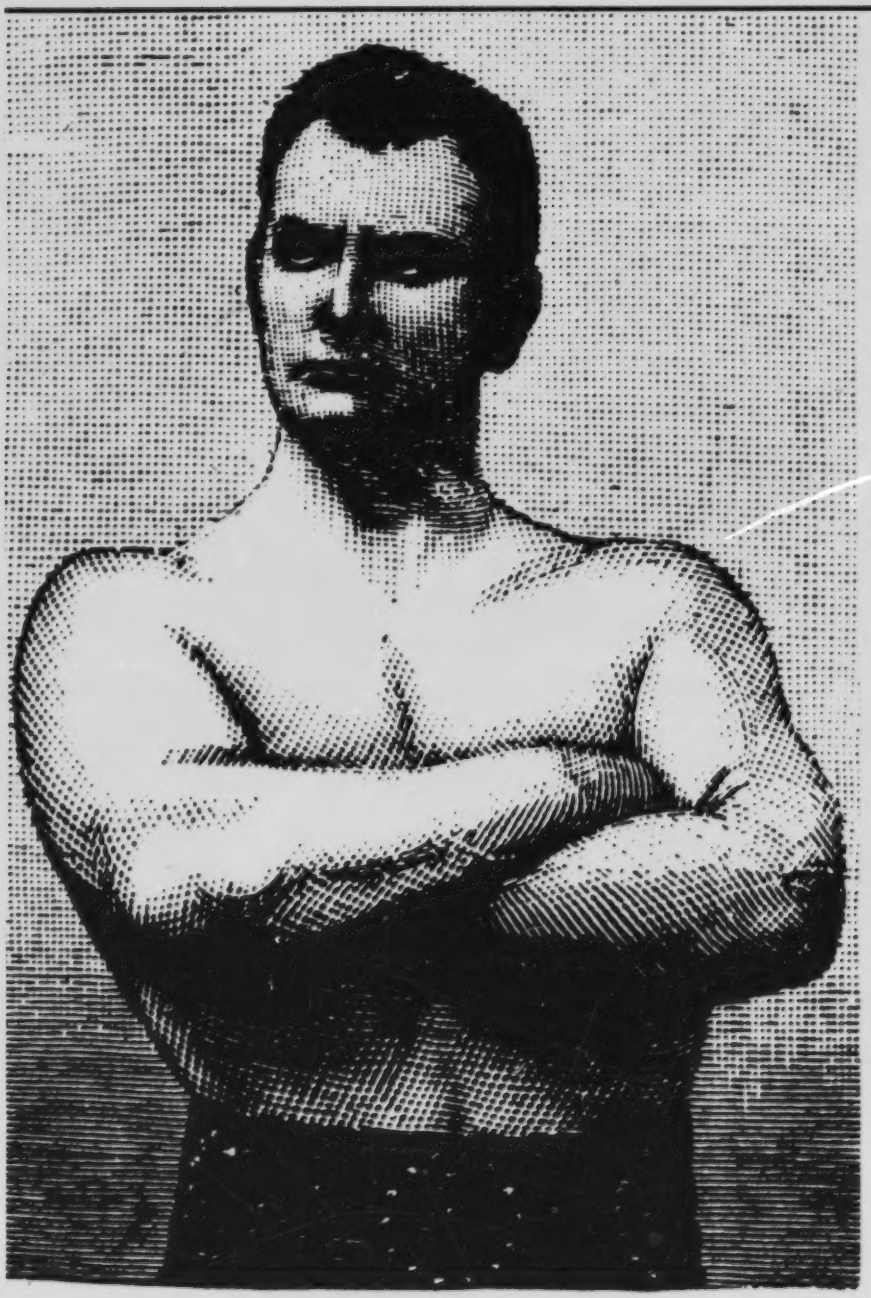
I thought I saw two people
But it was only a man and his wife.

RUSSIAN PROVERB



"Some women should be struck regularly–like gongs!"

NOEL COWARD



VIOLENCE

He Had Broken Four of Her Ribs

Victor Bruno was still hitting his wife, Carmen, when the police arrived. The two police officers had to pry Mr. Bruno's hands off his wife's neck. Nevertheless, when Mrs. Bruno pleaded with the police officers to arrest her husband, they refused, saying, "There is nothing we can do; we can't do anything in marriage fights." One of the officers said, "Be cool; try to control yourself."

Jane Doe called the police for help one night when her husband was beating her. He had broken four of her ribs in an earlier beating, for which she was hospitalized. On many other occasions, her husband had beaten her until her body was sore and heavily bruised. On the night of April 18, 1976, at about two o'clock in the morning, Mrs. Doe's husband beat her again, this time using the wooden gate used to keep the baby from going through the doorway. Mrs. Doe asked the police to come to the apartment so that she could safely pack her things and leave with her daughter. Five police officers arrived, but they refused to permit her to take her daughter with her. When she asked them to at least arrest her husband to get him out of the house, they refused, saying they could do nothing until she got an order of protection from the Family Court. During the time that the officers were in the apartment, they

A wife isn't a jug–
she won't crack if you hit her a few times.

RUSSIAN PROVERB

stood around joking with Mr. Doe. One of the officers said, "Maybe if I beat my wife, she'd act right too."

When Lydia Thomas' husband was beating her, she also called the police. But the officer told her, "He didn't commit any crime here, we can't arrest him. You should work this thing out together." Throughout the conversation, the officers mimicked Mrs. Thomas and made fun of her. To them the whole situation was a joke. But Mrs. Thomas thought to herself, "Now that my husband sees that the police are on his side and don't care about me, he could kill me."

These are the stories of three real women. Their experiences are all too common. According to experts, millions of American women suffer beatings at the hands of husbands and boyfriends, only to find that the law cannot or will not protect them. But unlike those women who have resigned themselves to lives as punching bags, Mrs. Bruno, Mrs. Doe, and Mrs. Thomas are doing something different. They joined 56 other battered women and went to court–they are suing the New York police department and the courts for failing to protect them.

Man's Ancient Right to Beat His Wife

Wife beating has been around for a long time. It is the product of deeply ingrained attitudes in our society. It reflects that fact that ours is a violence prone culture, but more than that, it is tied to outdated notions that the wife is merely the property of her husband–to be treated tenderly or brutally at his whim.

Going back to the old English common law, William Blackstone, in his *Commentaries* on the laws of England in 1765, summarized the legal status of married women and wrote of the husband's duty to discipline his wife:

> "The husband also, by the old law, might give his wife moderate correction. For, as he is to answer for her misbehavior, the law thought it reasonable to intrust him with this power of restraining her, by domestic chastisement, in the same moderation that a man is allowed to correct his apprentices or children; for whom the master or parent is also liable in some cases to answer. But this power of correction is confined within reasonable bounds..."

The English common law was transplanted to the American colonies, and much of it survived in the newly independent states as well. The story of Calvin and Lydia Bradley shows that the status of married women had continued unchanged from Blackstone's time.

Calvin Bradley was tried and convicted in a Mississippi court in 1824 for assault and battery against his wife, Lydia. Before the jury retired to consider the case, Calvin's lawyer asked the judge to instruct the jury that if the victim of the assault was the defendant's wife, he could not be found guilty. The court refused to give those instructions, and the jury found Calvin guilty.

On appeal, Calvin's lawyer argued to the Mississippi Supreme Court that a man could not be found guilty of beating his wife. Justice Powhattan Ellis found that under the old law, "the husband might give his wife moderate correction, because he is answerable for her behavior; hence, it was thought reasonable to intrust him, with a power, necessary to restrain the indiscretions of one, for whose conduct he was made responsible." But, the court pointed out, a man did not have unlimited license to beat his wife. The court was willing to overturn Calvin's conviction if he could show that he had confined himself within reasonable bounds in chastising his wife. Since he made no such showing, the court upheld his conviction.

The Bradley case was repudiated as a "revolting precedent" in 1893 by the Mississippi Supreme Court, and thereafter in Mississippi husbands had no right to beat their wives–even if they stayed "within reasonable bounds."

And, said the Alabama Supreme Court in 1871, society has progressed since the time of Blackstone:

> "...(A) rod which may be drawn through the wedding ring is not now deemed necessary to teach the wife her duty and subjection to the husband. The husband is therefore not justified or allowed by law to use such a weapon or any other, for her moderate correction. The wife is not to be considered as the husband's slave. And the privilege, ancient though it be, to beat her with a stick, to pull her hair, choke her, spit in her face or kick her about the floor, or to inflict upon her like indignities is not now acknowledged by our law."

The rule of love, declared the court, had superseded the rule of force.

"He didn't commit any crime here, we can't arrest him. You should work this thing out together."

–New York policeman to battered wife

"I don't condone wife beating but I know a lot of wives who ask for it and some get it."

–Milwaukee police officer

Wife Abuse Today

And yet, violence within the family is still with us. Even our humor reflects the extent to which our society tolerates wife beating. Richard Levy, a researcher who has studied the problem of wife abuse recalls the old Jackie Gleason Show. Many of us who watched television in the 1950s remember the inevitable punch line as an exasperated Ralph would shake his fist at his wife, threatening "One punch to the moon, Alice– one punch."

"If I told a joke about battered children, you'd think I was a sickie," Levy commented.

Fortunately for Alice, Ralph never made good on his threat to "send her to the moon." But in real life, that punch line is translated into real punches and real injuries for countless American wives.

Just how widespread is the wife abuse problem? Nobody knows for sure, but experts agree that the reported figures only reveal the tip of the iceberg. The FBI refers to it as the most common unreported crime. One estimate is that a woman is beaten every 18 seconds in this country. While one author puts the number of battered women in this country at one million, others feel it is far more widespread. One study says that 28 million American wives–half the married women in this country–are physically abused by their husbands. This figure includes behavior ranging from the occasional slap to regular beatings. At least 4.7 million women, or 10 percent of all American wives are badly battered, this study suggests.

Wisconsin is no exception to these grim statistics. Dane County Advocates for Battered Women estimates that there are about 4,000 battered women in Dane County. The St. Luke's Hospital emergency room in Milwaukee treats two or three badly battered women each week, and the Milwaukee City attorney's office reports that 100 to 150 women a month complain that they have been beaten by men. In 1976, the LaCrosse police investigated 456 domestic quarrels.

It's All in the Family, Officials Say

But police rarely arrest a man who beats his wife. Some police departments follow the rule that no arrest is made unless there are witnesses to the beating. Since most spouse beatings take place in the home late at night, it is unusual to have witnesses to the crime. Yet the same conduct between strangers would be treated as a crime, and an arrest would be made.

The names given by police to wife beating incidents–"domestic squabbles," "family fights"–reveal the trivial way in which these crimes are viewed. But when two Michigan lawyers studied 20 battered women, they found this reality behind the deceptively mild label of "squabble":

"Characteristically, the assault consisted of punching or hitting. Most often, the assailant employed more than one type of attack. Kicking occurred in 40 percent of the cases, and throwing (across the room, into walls, down stairs) appeared almost as often (35 percent). Other methods of assault included slapping (30 percent), choking (15 percent), burning (10 percent), and smothering (10 percent). Verbal threats of killing were directed... and threats to kill children in these families occurred in four cases (20 percent). The most common weapons employed in these assaults were fists (90 percent) and feet (40 percent)."

This study found that the areas of the body most frequently attacked were the head and face. Some of the women said that their husbands "always went for the face first." Another type of attack that occurred with shocking frequency was the infliction of blows to the abdomen while the wife was pregnant.

"Victim stated the first argument started over a pack of cigarettes. Victim stated accused (her husband) held her against the bathroom wall by the hair and continued to beat victim with his right hand. Victim is six months pregnant at this time. Victim stated accused kept telling victim, 'Bitch, you are going to lose that baby,' and then accused would beat the victim in the stomach again."

–Assaults. Felonious. File #41. Complaint #13626, July, 1974. Washtenaw County Sheriff's Department, Ann Arbor, Michigan.

"It is my view that police and later prosecutors and courts contribute to domestic violence by their laissez-faire attitude toward what they view as essentially a personal problem."

–James Bannon, Executive Deputy Chief of the Detroit Police Department

ALL IN THE FAMILY

We know that most wife beatings go unreported. But what happens when a women decides to file charges against her husband? Statistics from the Milwaukee City Attorney's Office show the following for the period September, 1976 to August, 1977:

- 1,294 cases of wife beating reported.
- 109 (or 8%) were referred to the District Attorney for criminal prosecution.
- 241 (or 19%) were abandoned because the wife failed to appear or requested that charges be dropped.
- 542 (or 42%) were settled by the City Attorney's office without criminal prosecution.
- 402 (or 31%) were referred to municipal court, legal aid society for civil action, or domestic counselors.

The low prosecution rate appears in city after city. In addition, since many spouse abuse cases are reported as disorderly conduct or some other activity, it's hard to tell the true disposition of all domestic violence cases. A 1975 study in the city of Madison showed that police made arrests in only 11 percent of the 210 wife abuse cases reported during a four month period. Most of the men were arrested on disorderly conduct charges. *Not a single man went to jail for beating his wife.* Fines ranged from $20 to $50. Weapons were reported used in 15 percent of the cases. While 24 percent of the victims had visible injuries, only four percent were known to have received medical treatment.

Similarly, in Montgomery County, Maryland, a task force reported the case of a woman whose husband knocked out four of her teeth with a radio when she woke him to go to work. The judge's ruling in that case? The husband had been provoked and therefore was not guilty of assault.

Police are unenthusiastic about intervening in spouse abuse cases. It is believed that rural police spend more time responding to "family fights" than any other type of incident except for motor accidents. A 1967 study estimated that more calls to Chicago police involved family conflict than other criminal incidents. In 1975, 20 police officers were killed in this country responding to disturbance calls–most of them domestic fights. According to FBI statistics, disturbance calls were the second most dangerous assignment for police officers. Disturbance calls accounted for 28 percent of the assaults against police officers. So it is understandable that police officers become disgusted when wives do not follow through on charges against their husbands. Jerome Dudzik, president of the Milwaukee Police Association, commented recently: "One of the biggest reasons we've got a problem is women haven't done their thing... a woman has to make up her mind this is the last time she's going to be beat and follow through on the prosecution."

Yet, it may also be true that police attitudes discourage women from pressing charges. This problem was

When did you stop beating your wife?
Who said I stopped?

VAUDEVILLE ROUTINE

highlighted by Executive Deputy Chief James Bannon of the Detroit Police Department in a speech to the American Bar Association:

"It is my view that police and later prosecutors and courts contribute to domestic violence by their laissez-faire attitudes toward what they view as essentially a personal problem. Further that this view is held because police are socialized to regard females in general as subordinate."

And from a recent series on battered women in The Milwaukee Sentinel comes this comment from the secretary-treasurer of the Milwaukee Police Association: "I don't condone wife beating, but I know a lot of wives who ask for it and some get it."

He recounted the story of a soldier home on leave from Viet Nam who beat his wife on discovering she was pregnant by another man.

"He hit her in front of us. If I had his circumstances, I don't know if I would have hit her–I'd have killed her," he said.

Even those who would be expected to sympathize with women frequently misunderstand the plight of the battered wife. A report by the Law Enforcement Assistance Administration cites the case of a woman who said:

"I told my gynecologist that my husband was extremely violent and I was mortally afraid of him. Guess what the doctor said? I should relax more. He prescribed tranquilizers."

And not long ago, the New Hampshire Commission on the Status of Women blamed the wife beating problem on the rise of feminism: "Those women libbers irritate the hell out of their husbands," commented one commission member.

But the fact is that brutal beatings are often triggered by minor disagreements. One woman told a Wisconsin legislative committee that she was beaten because the spaghetti wasn't warm enough. Frequently, victims report that they have no idea what set off their husbands.

Battered Women

Q. *Where can a battered woman turn to get help?*

A. She can call the police, but there is no guarantee that the police will arrest her husband. In some communities, like Madison, the police will find a place for a woman and her children to spend the night if she needs to get out of the family home.

A woman, a spaniel, a walnut tree,
The more you beat them, the better they be.

OLD ENGLISH PROVERB

Even if the police arrest her husband, the chances are that he will be released on little or no bail.

If the police do not charge her husband, a woman can complain directly to the District Attorney's office. But few such complaints end in prosecution–most often because the wives themselves drop the charges. Even where a woman persists, wife beaters rarely go to jail for the crime.

If she decides to get a divorce, a Wisconsin wife can get a court order removing her husband from the home which requires him to stay away from her. In some states, like Illinois, a wife can get a judge to forbid a violent husband from entering the home, whether or not a divorce has been filed. But in Wisconsin, there is at present no legal basis to exclude the husband from the home, unless the wife files for divorce.

Q. *What should a battered wife do if the law won't protect her?*

A. Many feel that the best advice is leave the home. But that is easier said than done in many cases. When there are no shelters available to house women and their children, battered wives often find they have no place to go. In some communities women's support groups provide shelter and counseling. To find out if your community has supportive services for battered women, call your county home economist (whose office is in the county courthouse), community mental health center, women's center, or police department.

Q. *Almost every Saturday night I hear noise of furniture crashing and cries from our neighbor's house. My husband tell me to mind my own business, but I am sure Mrs. M. is beaten regularly because when I've been in the back yard I have frequently noticed she has bruises on her face and arms and I know for a fact that her husband drinks heavily. She seems so low-spirited, I would like to help. Doesn't she have any legal rights to protection?*

A. Yes. In Wisconsin, victims of physical assault have the right to bring civil suit against mates who have intentionally injured them, and may collect damages.* They may also file criminal charges against the person who beat them with the District Attorney. A woman who is beaten by her husband is in a real dilemma, however, because to seek and follow through on gaining official intervention will probably bring to an end a marriage in which she may feel the good outweighs the bad.

Your neighbor probably needs informal help from a friend or professional counselor to help her sort out her feelings and come to a decision on which course she should take. If you don't feel you have the strength to sustain her, perhaps you can think of someone else who would be willing to offer her some friendly support while she considers her position.

Q. *If it's so bad why do those women stay with their husbands anyway? Don't they just like to suffer?*

A. The answer to this question is complex. On the psychological level, an abused woman has been battered emotionally as well as physically. She may not be able to look out for her best interests. Many women are ashamed to admit that they have been beaten by their husbands. They may even feel at some level that they deserve to be beaten, even if they haven't provoked the attacks. And often women hope their husbands will change.

But the biggest factor keeping a battered woman in the home may be economic reality. If she has never worked outside the home or has not worked recently, she may be unable to find work. If the husband has been the sole breadwinner in the family, he may also have control over the family's economic assets as well. The woman may find she cannot even find temporary shelter for herself and her children.

Q. *What if the wife decides to leave the home–is there any special information she needs to have?*

A. If she decides to leave, she should take her children with her. She should be aware that if she leaves her children with her husband, she may have a problem getting custody when she files for divorce. If a woman leaves the county to get away from her husband, she should file for divorce before he does, particularly if her new county has more progressive and sympathetic judges. Another

*In twenty-three states, assault victims cannot sue their spouses even for intentional damage.

reason for filing promptly is the advantage of having the case go forward in the county in which she lives. In that way, she can insure that her interests are fully represented without incurring the inconvenience and expense of traveling back to her original county to appear at hearings and conferences. But she should be aware that her new address may be given to her husband, if he is being sought to make child support payments.

Q. *Doesn't wife beating just occur among the lower classes?*

A. No. Wife abuse cuts across all class and economic levels. A nationwide survey done by Louis Harris and Associates for the National Commission on the Causes and Prevention of Violence found that approval of violence actually increased as education and income went up. We hear more about domestic violence among the poor probably because they have only public agencies like the police to turn to for help. Middle and upper class people enjoy greater privacy and thus can conceal family violence more easily.

Q. *Aren't wife beaters mentally ill?*

A. Not necessarily. Researchers feel that the frequency of mental illness among wife beaters is no greater than the frequency of mental illness among the population as a whole. An experienced counselor at the York Street Center in Denver said of wife beaters: "your run of the mill wife beater is not sick. He's not disturbed. He holds a job. He functions well. He maintains good relationships with other people–everyone but his wife."

Although a man who beats his wife may not be classifiably mentally ill, he may be a person with shaky self-esteem who has great difficulty handling frustration. Under stress, such a person may explode into violence against his wife, his children, his girlfriend–anyone who is close to him and who is too weak to fight back.

An authority on the subject found that men who beat their wives often:
- –were beaten as children
- –witnessed violence between their parents
- –frequently become involved in barroom brawls
- –got married because their girlfriends were pregnant
- –drink heavily

Q. *All I hear about is men beating their wives. Don't women ever attack their husbands?*

A. Yes, they do. But when women lose their tempers and go on the offensive with their fists, they are generally not able to inflict the kind of severe physical damage that men do when they beat their wives.

Women and men who are battered by their mates are usually people who feel overwhelmed by life, repress their strong feelings and tend to blame themselves for whatever goes wrong. They frequently feel guilty for having been beaten and too ashamed to seek outside help. They need the good things in their marriage and put up with the violence that is part of it because they feel powerless to change it and head off the escalation that can lead to permanent injury or death.

When one partner habitually assaults the other, there is the danger that the customary victim, provoked beyond endurance, may "snap" and attack in turn, using a lethal weapon.

Q. *I love my daughter, but she has become a "terrible two" and is really acting up now that I have a baby to care for. I think I could handle it if other things were going well, but my husband was laid off recently and he has a really short fuse. He says it's my job to keep her out of his hair. When he goes on at me, and then she starts, it gets to be too much. I know her dad is liable to be too rough but on several occasions it was me that got to the point that I lost control of myself and I hit her much harder than I intended. I feel just terrible this week because she is all bruised up. When a friend asked what had happened to her I was so ashamed I said she had fallen down the steps. I am afraid I am a miserable mother. What is worse, I know that between them they will push me over the brink again and I'm really worried at what her dad or I might do to her. How can I get help without everyone in the community becoming convinced I am a monster and thinking that my children should be taken away?*

A. You are one of the many well meaning but overburdened parents who needs help because you are behaving toward your child in ways that you realize are damaging to her. Many women and men have learned to change their behavior with the support of other caring

NATIONAL PLAN OF ACTION

Battered Women

The President and Congress should declare the elimination of violence in the home to be a national goal.

Local and State governments, law enforcement agencies and social welfare agencies should provide training programs on the problem of wife battering, crisis intervention techniques, and the need for prompt and effective enforcement of laws that protect the rights of battered women.

Programs for battered women should be sensitive to the bilingual and multicultural needs of ethnic and minority women.

adopted at National Women's Conference, November, 1977, Houston, Texas

parents who have had similar problems in dealing with their anger and frustration.

Parents Anonymous (P.A.) is a nation-wide supportive organization of parents who are helping each other stop the violent behavior threatening their children. P.A. does not have the legal authority to take your child away: its focus is not to break up families, but to help parents and children be more happy with each other and less abusive. Call your county home economist (whose office is in the county courthouse) or community mental health clinic or the toll free national P.A. line at 800-421-0353 to find your nearest chapter of Parents Anonymous today. Don't give up–help *is* available.

Violence Can Escalate

The view that domestic violence is a personal problem that society should leave couples to work out on their own does not take into account some very disturbing facts. Twelve percent of the murders in this country are committed by one spouse against the other. A 1971 Kansas City, Missouri study found that police had been called at least once before in 84 percent of all domestic homicides; in half of the cases, they had been called several times previously. Sociologist Marvin Wolfgang states that "the facts suggest that homicide is the apex crime–a crescendo built upon previous assault crimes."

Another sociologist, Murray Straus, concluded from a national survey of violence in 2,143 American families that about 2 million husbands and 2 million wives commit at least one serious attack on their mates each year. He says "When there is a fight, the woman, on the average, comes out the loser."

However, when violence between husband and wife escalates to murder, it is impossible to foretell who will kill and which of them will be the victim. For the past 50 years, half of the husband-wife murders have been of men and half of women. The widely publicized case of Jennifer Patri, the Waupaca County farm wife who killed her husband, illustrates this point.

The Jennifer Patri Case

Jennifer Patri, 32, of Weyauwega, Wisconsin, is a slim, fair-haired, attractive woman who was a longtime Sunday School and Bible School teacher, president of the Weyauwega Parent Teachers Organization for two years, the mother of two daughters and a hard-working farm wife who sometimes labored 16-18 hours a day on the family hog farm.

She had an unhappy childhood in Minnesota and Iowa, where her father was in charge of hogs on a ranch. She was very young when her mother deserted the family and she remembers instances of cruelty among the 10 children in the family. She still has facial scars suffered in an accidental fire as a child.

Jennifer married Robert Patri in 1963. "Bob was my cause. It was sort of like a crusade...I thought this person needed me, and, yes, I did need to be needed." After moving to California for a short time, they bought a hog farm in Waupaca County and settled down there in 1969. In nearby West Bloomfield, Bob also opened an auto body shop. For a while, farm life was good, with Bob running the body shop and doing the heavier farm work like plowing. Jennifer took care of the hogs, ran the tractor, baled the hay, picked the corn, raised their two daughters, cooked, cleaned and cared for the family. She became active in church and school affairs.

But the auto body shop was not successful. As business failed, Bob stayed home a lot, often refusing to help with the farm work. "He felt he was a born loser," she said. Some relatives described how he got into terrible fights at bars. He became increasingly abusive at home, Jennifer said. "But I don't like him to be made the big villain, painting him entirely black . because I'm not a paragon of virtue either," she said, adding that he sometimes used force "if he didn't get his way sexually," and was abusive while pretending to be playful. The physical abuse, however, wasn't nearly as destructive as the emotional abuse: "He always told me I couldn't make it without him, I couldn't make a living on my own... He always said I wasn't worth very much, that I was just a worthless piece of property...But Bob was calling out for help, too, and no one was listening. He might have been a monster in a way, but there were reasons."

She accepted the beatings, she said, because she was "conditioned more or less from childhood to expect and

"Woman is a domesticated wild animal, lecherous and sinful from birth, who must be subdued with a stick and guided by the 'reins of religion'."

OCTAVIO PAZ, *1961*

accept abuse...A wife takes whatever a husband dishes out–that's how I thought about it."

But on March 25, 1977, Jennifer Patri stopped taking it. She had reached the breaking point. Bob had moved out of the farmhouse to live with a 27-year-old woman. Jennifer had filed for divorce at his request. She had started hearing disquieting stories about him that made her feel "sicker and sicker about what kind of person I had been living with all those years...The problem for me was that here I had defended him, catered to him, groveled at his feet." That evening in March they fought over visitation rights for their two daughters, now aged 13 and 11, and Jennifer refused to let her husband be alone with the girls or take them to the apartment he shared with the other woman.

As the argument over the visitation dispute grew heated, Jennifer picked up a 12-gauge shotgun, fired at and killed her husband. The next day, she turned herself in to local authorities, prepared to be imprisoned.

The jury acquitted her of the harsher charge of first degree murder sought by the prosecutor and convicted her of manslaughter.

Another example of homicide as an "apex crime–a crescendo built upon previous assault crimes" is this newspaper account of a young Irish woman's story. ▼

THE TRUE STORY OF NOREEN WINCHESTER

BELFAST, Northern Ireland — Women's rights groups in Northern Ireland have launched a campaign to free a 21-year-old woman jailed for stabbing her father to death after suffering years of sexual abuse by him.

The "Free Noreen Winchester" campaigners say Noreen was provoked into stabbing her father 21 times as he lay in a drunken sleep because he had forced her to have sex with him since she was 11.

An Appeal Court heard last week that the incestuous relationship was forced on the daughter by her 37-year-old father who kept her a virtual prisoner in the home.

Winchester's mother, disgusted by the incest which she was often forced to witness, eventually left home with her 12 children, but was now in a mental hospital, the court was told.

The judge turned down the appeal against the seven-year sentence, but said Winchester could apply for a royal pardon.

The case has focused attention on the crime of incest here.

Social workers said that while investigating cases of battered wives, they often found that women were beaten up because they tried to stop their husbands from committing incest.

A police spokesman said that only one-tenth of incest cases were ever reported.

"It is more widespread than people think, but mothers are too ashamed to report it to us," he said.

In an editorial on the Jennifer Patri case, the Milwaukee Journal said:

"We understand how a long-abused woman can eventually explode in lethal violence," but then went on to point out: "The lesson is not that abused women are justified in killing, but that they, their disturbed husbands and their confused children need and deserve help–of a kind and intensity society has yet to provide.

"First, though, we need to dispel the myth of family self-sufficiency and to de-romanticize the image of suffering woman as martyr. It should not be expected that severely disturbed families muddle through alone or that wives suffer abuse mutely.

"Then we must be ready to provide psychological counsel for disordered families. A willingness to help is the kind of constructive attitude that responsible people should promote..."

And responsible people should seriously promote the idea that violent behavior is not to be condoned under any circumstances on the part of any family member no matter how disturbed or unhappy he or she may be. They should also join together to outlaw the right of any individual to force another human being to submit to sexual acts against her or his will. No one person should hold proprietary rights in another's body or labors.

The human dignity of all family members–women, children and men should be *equally* respected, in our laws and in our lives.

Nineteenth century woodcuts

CHECKLIST FOR BATTERED WOMEN

Things you can do at the time of the attack and immediately after:

1. Protect your face, chest, and abdomen and do all you can to avoid intensifying his anger.
2. Leave as soon as you can. Go to a neighbor or a friend and take your children with you.
3. If you are unable to leave without assistance, call the police. While they are unlikely to arrest your husband, their intervention can give you breathing space. They may even escort you to a friend's house or find you a place to spend the night.
4. If you need medical attention, call your family doctor or go to the emergency room of the nearest hospital.
5. Document your injuries. Have them photographed while the injuries are most visible. You will need proof if you later decide to take legal action.

Things you can do once the crisis is over:

1. Seriously reflect on your relationship with your husband. Could your relationship be improved by marriage counseling? Could you yourself benefit from counseling, even if your husband is not willing to seek professional help? Or, are you willing to continue to risk serious injury or death in the hope that your husband's violent behavior will disappear on its own?
2. If the police officers did not file charges against your husband and you wish to press charges, you can complain directly to the district attorney. But statistics have shown that women who decide to continue to live with their husbands are very unlikely to follow through on their complaints.
3. If you do decide to leave your husband, don't threaten – just do it. Don't provoke an unnecessary confrontation.
4. Remember that it's up to you to take the first step to change your life. No one else can do it for you.

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DIVORCE: SOME REAL LIFE SITUATIONS

DIVORCE

No Divorce Without Fault

In this state, as in most states, we marry with minimal legal fuss. We submit to a few cursory formalities and quickly find ourselves legally bound to a host of obligations and responsibilities we probably are not fully informed about. In contrast, if we find ourselves wishing to end a failed marriage, we must deal with a vast and complex system of legal rules and procedures which complicates an already difficult and unpleasant process. This is in part because children are often involved, and because difficult questions of property and income allocation must often be decided. No change in the laws can reduce the complexity of the divorce situation. However, another complicating factor in the divorce process in the past has been a misguided attempt on the part of the state to "protect" the institution of marriage by requiring legally acceptable proof that an innocent spouse has been terribly wronged by a guilty spouse and thus deserves the court's aid in ending an intolerable situation. This "fault" requirement has necessitated long and painful legal proceedings; has permitted spouses in dead marriages to blackmail each other, emotionally and financially, over "grounds"; and has caused many good and honest people to lie–or at least to exaggerate–in order to end

"Love, the quest;
marriage, the conquest;
divorce, the inquest."

HELEN ROWLAND (1876-1950)
Reflections of a Bachelor Girl, 1903

a marriage. It has had unfortunate and ludicrous results, such as the situation faced by a Virginia couple whose divorce was denied though their marriage was clearly over.

The True Story of the Capps

David and Patricia Capps were married in 1969. Their relationship was stormy from the beginning, with numerous arguments and short separations. Finally, during one quarrel, Patricia told her husband, a semi-disabled veteran, that he "wasn't half the man" her previous husband had been. David struck her and according to Patricia, "choked her in the bend of his arm," and told her to get out. She did. After four years and one child, the marriage was over for both of them. David filed for divorce on the ground of desertion, since Patricia had moved out of their house. Patricia counter-claimed for divorce on the ground of cruelty, because David had beaten her and caused her physical injury.

The Virginia Supreme Court denied the divorce on both grounds. Patricia was not entitled to a divorce, according to the court, because the single incident in which David had struck her wasn't enough to prove cruelty and prove David at "fault." Her life was not endangered and there was no proof the beating was likely to be repeated. And, the court reasoned, David was not entitled to a divorce because Patricia had been provoked into leaving by his physical abuse and was not at "fault."

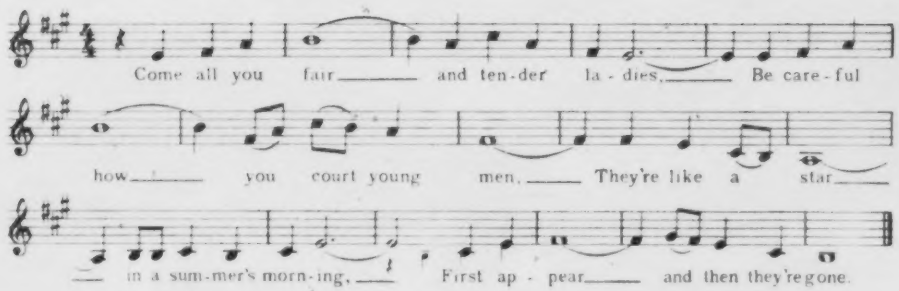
So, the Capps were forced to remain legally married, although they had not lived together for more than a year and there was no hope for reconciliation.

Wisconsin has moved away from the old system of assigning blame and meting out retributive "justice" in divorces. A reform act, which went in effect on February 1, 1978 abolished all the old "fault" grounds in divorce actions. Now, the only ground for divorce is "irretrievable breakdown" of the marriage. Wisconsin law now recognizes that, in most cases, both spouses share in the responsibility for marriage failure. Nothing was gained–and much time and good will were lost–in the legal system's attempts to pinpoint wrongdoing and allocate blame.

FINANCIAL SETTLEMENTS

Many states have eliminated fault grounds for divorce and thereafter have believed their divorce laws to be adequately reformed. They have ignored the real area of dispute in most divorces: financial settlements. How is property to be distributed between the spouses? How are debts to be allocated? Who should support the children, and at what level? Should either person receive a share of the other's prospective income? In most divorce cases, the couple basically agrees that the marriage should be ended but there can be

fierce dispute over these financial matters. Women often fear that they will be left penniless, without just compensation for their years of contributing to mutual endeavors. Men, on the other hand, often deeply resent the financial sacrifices they must make to end a marriage, and the continued drain of alimony and support payments thereafter. The hard fact is that two households cost more to operate than one; the separation of one family unit into two generally means that everyone's standard of living must be reduced. Laws cannot change that economic reality; but they can ensure that financial decisions are made fairly, that hardships are equitably borne by the parties, and that each party can rely on the other to comply with a court-ordered obligation. Wisconsin's new divorce law has these goals. Its importance to divorcing individuals becomes clear when we look at the unfairness possible under the old system.


Come all you fair and ten-der la - dies, Be care - ful
how you court young men, They're like a star
in a sum-mer's morn-ing, First ap - pear and then they're gone.

The True Story of Norma Norris

John and Norma Norris were married in 1950. They lived on a farm in Illinois which John had inherited before they were married. At first, Norma was a housewife, caring for their children, performing the usual household tasks, gardening, preserving large quantities of food and cooking five or six daily meals for the hired hands who worked on the farm. Later on, when the children were in school, Norma took on an outside job. She continued to do the traditional tasks, and in addition contributed part of her income for family expenses.

After 22 years of marriage, John divorced Norma. The court awarded her no alimony. Her share of their marital property consisted of only her own clothing and personal effects, a few household items which she owned prior to the marriage, and an automobile which she had purchased in her own name with her own funds. The house and furnishings, the farm with its machinery and livestock, the savings–all went to John.

Norma appealed the decision. "Surely, after 22 years of hard work, I am entitled to at least a portion of the assets I helped to accumulate," she thought. But the legal system saw things differently. The appellate court upheld the lower court's division of the property.

A spouse seeking part of the other spouse's property, explained the court, must show that she or he made valuable contributions to the property's worth. The court defined a valuable contribution as "money or services other than those normally performed in the marriage relation"; Norma's years of cooking, cleaning and childrearing did not meet the court's definition of "valuable."

But the money Norma contributed for family expenses from her outside employment is "valuable"; would she not be entitled to some recompense for this financial contribution? No, said the court; she did not keep clear records of what property was acquired through her own effort, and consequently all property was properly awarded to her husband.

In other words, the court told Norma, her 22 years of hard work and unselfish consideration of her family–during most of which she held down an outside job as well as a full-time job at home–entitled her to nothing when the marriage ended. The labor and money she contributed to what she assumed was a joint enterprise enriched her husband, but was totally lost to herself. In middle age, Norma was forced to start over economically.

Maybe, in the case of the Norrises, the court paid some regard to the fact that John Norris had inherited the farm. Did it make a difference, under the old system, at the time of divorce, if a couple had worked together to buy property? Would a judge award half of the property to each of the spouses? That didn't happen in Irene Murdoch's case.

The True Story of Irene Murdoch

Irene and Jim Murdoch were married in 1943. She owned two horses; he had 30 horses and eight head of cattle. They hired themselves out as ranch hands for several years, saved money, and then invested in a dude ranch.

For many years they worked side by side. They saved more money and accumulated more property. She did all the usual household tasks and also did "haying, raking, mowing, driving trucks and a tractor, dehorning, vaccinating, branding," any work that needed to be done.

For five months a year, while Jim was away from the ranch attending to his duties as a member of the forest service, Irene managed the property alone. To their joint ventures, she also contributed money which she personally earned. In 1968, Jim asked Irene to release her dower rights* to a piece of their property so that he could sell it. When she refused, he beat her so severely that she was hospitalized. This led to their separation after 25 years of marriage.

Irene Murdoch went to court, asking for a legal separation, ownership of the ranch home and the land surrounding it and a one-half interest in the ranch land, cattle, cattle brand, and other assets.

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*Dower rights are the historical rights of the surviving wife to a life estate in one third of the land her husband owned at any time during the marriage. (In Wisconsin and some other states dower rights have been abolished and replaced by a statutory "forced share.")

"Both Chicanos and gabachos have been guilty of the merciless stereotyping of females as docile, helpless, emotional, irrational, and intellectually inferior creatures who are best suited to be sex objects, domestic servants, and typists."

PATRICIA CRUZ

The court granted her only $200 a month maintenance. Everything else–land, cattle, assets, family home–went to Jim. The judge justified his ruling this way:

> The land was held in the name of Mr. Murdoch at all times. The cattle and equipment were also held in his name; no declaration of partnership was ever filed... and I, therefore, do not form the conclusion that the Murdochs were partners, or that a relationship existed that would give Mrs. Murdoch the right to claim as a joint owner in equity in any of the farm assets.

Irene Murdoch had worked for 25 years to make her husband a rich man. Her reward was the promise of $200 a month and a severe beating. Similar cases are to be found in almost all common law states.

If Norma Norris and Irene Murdoch had been divorced according to the terms of the new Wisconsin law, they would have been treated more equitably. The new law presumes that a couple's property–except property inherited by either of them–is to be divided equally between them. However, courts can alter this equal distribution after considering special circumstances.

"Marriage is a noose."

CERVANTES (1547-1616)

Where there are no children or property, the actual process of divorce itself can be less complicated. The situation creating the realization that divorce is the solution can be just as difficult and as painful in a shorter as in a longer-term marriage, as the story told by this young woman shows.

I Felt Like an Object

"I was born in New York City 23 years ago to parents of Puerto Rican descent. My parents have been poor all their lives and most of their energy went into struggling to survive from day to day.

"At the age of 17 I married in hopes of breaking away from the poverty and emotional deprivation from which I suffered as a child.

"What kept me from becoming a baby machine was I knew I was not ready to have children. I hated them. I had seen all the problems and restrictions my mother had endured: I hated the fact that she was not allowed to go to school, not even to take typing classes, because my stepfather did not want her to do so. She worked in a factory for a while, but then my stepfather said no because a woman's place is in the home with the children.

"The marriage I had jumped into was one of frustration, emotional neglect, and financial woes. There was no communication. There were times when I wanted to share my ideas and have them heard. When they were heard they were also ignored. I felt like an object that was on display for my husband's benefit. During the fourth year of marriage I decided to concentrate my energies on completing my education. I studied very hard while at the same time I performed my wifely duties, only to discover that my husband had decided to play his male role of pursuing other women.

"Some Latin men think that the more women they conquer the more of a man they have proved themselves. So they act flamboyantly and shame their wives who need their support. My husband never consulted me or treated me as an individual deserving respect. I was humiliated. I felt emotionally drained and empty. I wanted to commit suicide. The only person I could rely on was myself and I was publicly shamed and socially unacceptable.

"I finally brought myself out of it. With only the advice of a friend who is an attorney, I managed to complete the legal paperwork necessary for a divorce and to represent myself. I am now back at my studies. After five and a half years of a relationship that did not work I am single and a person in my own right."

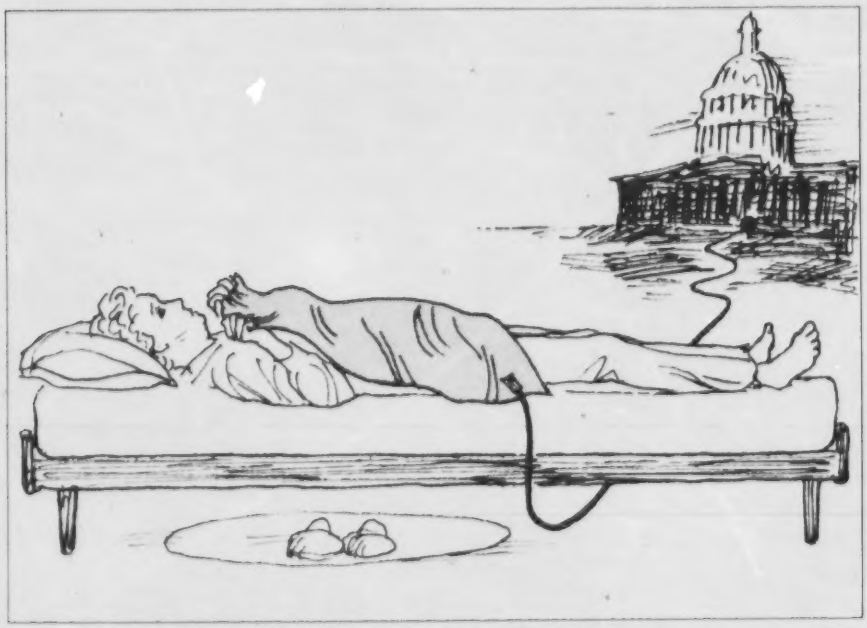
The Social Security Blanket

Q. *After 35 years of marriage, my husband divorced me and married a woman 20 years younger. Now he is retired, and I get a monthly social security check of only $160 (half of his monthly benefit). I get just what I would if we were still living together and drawing $480 between us (the $480 would be his monthly check of $320 plus mine of half that amount since two can live cheaper than one). Social Security pays a good friend of mine $295 a month (her deceased husband's full benefit) because she is widowed and the law recognizes that a person living alone cannot survive on only half of one benefit. Well, what about me and other cast-off wives? It makes me angry that all my years of work for my family entitle me to only half a benefit when I am trying to manage alone. How can I live on $160 a month? What can I do?*

A. There is no immediate solution for the problem you face other than to apply for Supplementary Security Income or general relief.

The social security system we have today is based on conditions that existed in America 40 years ago and is in urgent need of overhaul to meet today's realities. When dependents' and survivors' benefits were added to Social Security in 1939 and 1940, there were few divorces and only 25% of all women above the mid-teens and 14% of all married women were in paid employment. So it seemed then that the only possible way to protect women against loss of income in their old age was to anchor their benefits to their husband's wage records. At that time, too, women's life expectancy was less: it was 65 years in 1940 compared to 76 years today.

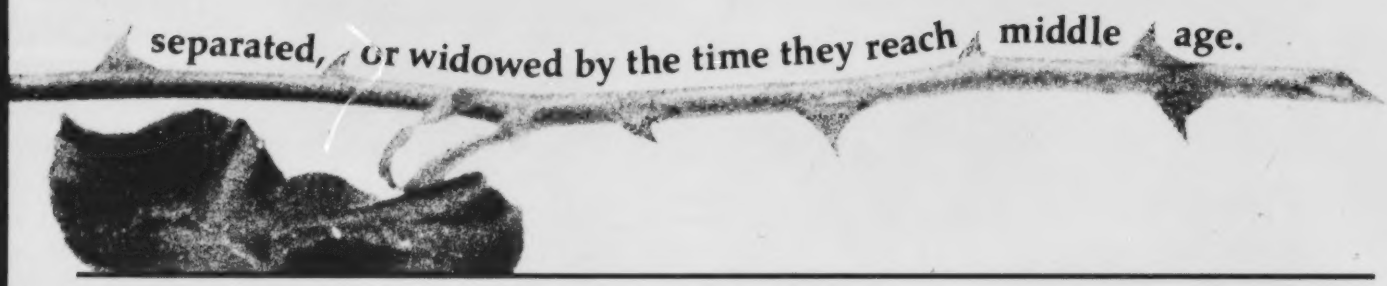
There are several reform proposals under discussion by women's groups and congressional representatives. One proposal is that a couple's total wages should be split evenly each year for Social Security crediting purposes. If a husband made $12,000 a year and his wife earned nothing, each would be credited with $6,000. If she entered paid employment the following year and earned $4,000 while her husband continued to earn $12,000, each would be credited for $8,000, half of their joint total of $16,000. The main objection to such reform proposals comes from the fear that the wife's broadened eligibility and her continuous earnings record might mean the overall Social Security system would cost more.



Credit

Q. *I have been told by our local department store that I can no longer have charge accounts with them since I am now divorced and the accounts were in my husband's name. We both used the account, can they do this?*

A. Credit cards can not be automatically revoked because of change in marital status. The store can ask you to reapply if there is reason to believe your ability to pay is affected by your divorce or if your credit was based solely on your husband's income.



Q. *Now that I am divorced, I have gone to work as a bookkeeper and will earn about $20,000 a year. I would like to buy the duplex I am now renting, but I can't get a loan from a bank or a savings and loan company. They say that I have been working only a short time and have no credit history in my own name. How can I establish a credit record quickly?*

A. Open a savings and a checking account in your own name. If you meet the basic requirements, you may want to apply for a bank credit card such as Master Charge or Visa (Bank Americard) or open credit accounts at local stores. You should use the card or accounts regularly and pay the bills promptly.

Insurance

Q. *I have heard that companies increase car insurance premiums for divorcees because they believe them to be unreliable. Is this true?*

A. In the past, persons were often denied coverage or placed in a substandard (and far more costly) classification because of divorce or cohabitation living arrangements. However, that practice was prohibited since the adoption in 1976 of Wisconsin insurance rules which ban such discrimination on the basis of marital status, sexual preference, "moral" character, age, mental or physical disabilities or past criminal records. That rule applies only to auto and property insurance (Ins. 6.54 of the Wisconsin Administrative Code). That same year rules were passed prohibiting sex discrimination in all types of insurance (Ins. 6.55 of the Code). If you think you have been discriminated against, you can file a complaint with the State Insurance Commissioner, 213 W. Washington Ave., Madison, WI 53703 or by calling (608) 266-0103.

Choosing a Lawyer

Q. *How do you choose a lawyer? How can you tell if your lawyer is representing you fairly?*

A. It is difficult to give advice in this area. The choice of an attorney is a highly individual one. You should be able to trust your lawyer, and you should feel comfortable with her or him. No one but you can determine if your lawyer is right for you.

You probably do some comparative shopping before purchasing most expensive items. It is certainly appropriate to shop around before settling on a lawyer. Discuss attitudes, prices–anything you choose–with several attorneys and choose the one with whom you feel most compatible.

A *good lawyer* will generally not tell you what to do, but will spell out for you the various alternatives available and their legal consequences. A good lawyer will have time to answer your questions–but if you have *many* questions, you may have to pay extra for the advice. A good lawyer will be pleased to discuss fees in advance, and won't mind your seeking a second opinion. A good lawyer will not promise results, but will give you his or her best projection of the probable outcome of a course of action. A good lawyer will probably prefer to represent you alone–and will probably balk at the idea of acting for you and another person jointly.

If the lawyer you have chosen seems unsympathetic to your point of view, doesn't share your values, won't explain things to your satisfaction, or give you an idea of approximate costs, charges exorbitant rates, is pursuing a course of action which you feel is not beneficial to you, or for any other reason is unsatisfactory, do not hesitate to obtain a second opinion and, if necessary, change attorneys. Making a switch may seem burdensome, but it will give you peace of mind and possibly save you money.

How to find a lawyer? The best source is your friends, particularly friends who have recently needed the kind of legal advice you now seek. Their recommendations will give you an idea of some attorneys to check out. Other sources you may wish to check include local women's groups, the American Civil Liberties Union, organizations of women lawyers or law students in your area, and your banker. *A word of caution for widows or wives facing divorce:* your longtime family lawyer may give your husband or his estate priority over your own well-being–from force of habit, from biases about "women's place," from a sense of loyalty to your husband or all three. So tread cautiously, ask questions, and persist until you get explanations which satisfy you.

Wisconsin divorce facts

In 1976 a total of 14,579 divorces were granted, involving 18,721 minor children

COMPENSATION FOR LOST EARNING POWER

For most couples, the major family asset is not property owned, but the breadwinner's earning power. How should that be divided, especially when a wife has sacrificed to enable her husband to get the training needed to maximize his earning power? Some courts have held that the wife has no claim at all.

The True Story of Anne Graham

When Anne and Dennis Graham of Boulder, Colorado petitioned the court for a divorce, Anne asked for redress for supporting her husband while he worked for a master's degree.

An expert testified that the present value of Dennis' advanced degree was $82,836. Judge Horace B. Holmes ordered that the value of the degree be divided between them and awarded Anne $33,134 to be paid at a rate of $100 a month.

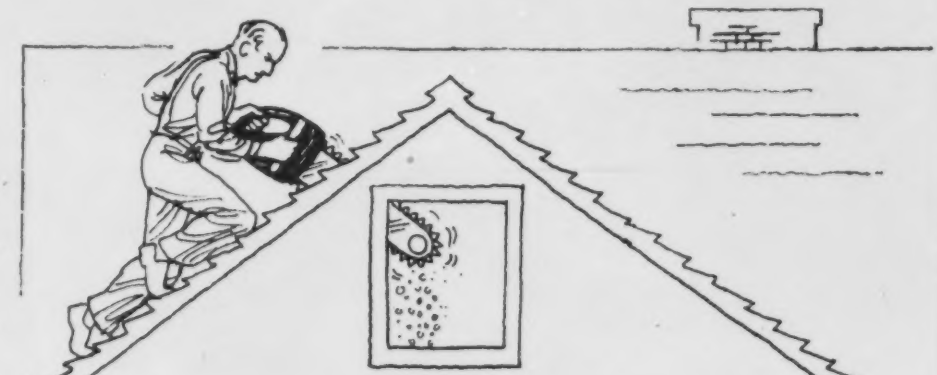
A higher court ruled otherwise in 1976 when the case was appealed, however, saying it could "find no authority to consider education as a property item which is itself capable of division."

What if a wife seeks only an equal chance to achieve the same level of earning power that she enabled her husband to reach?

The True Story of Ethelyn Morgan

Ethelyn and Charles Morgan were married in 1967, when he was a third-year pre-law student and she was a sophomore studying biology. They agreed Charles should finish his legal education while she worked to support them. She worked full-time until later that year when their son was born. After a few months she returned to work part-time, while also caring for her son and occasionally other children, and doing typing at home for her husband and other students. This continued for seven years until she and Charles separated.

Ethelyn decided to go back to school. As a full-time pre-medical student she earned exceptionally good grades. Meanwhile Charles was doing well after joining a Wall Street law



Property division

NEW BRUNSWICK, N.J. (AP) —

Eugene Schneider has been ordered to explain in court why his idea of dividing property in a divorce settlement was cutting his $80,000 house in half with a chain saw.

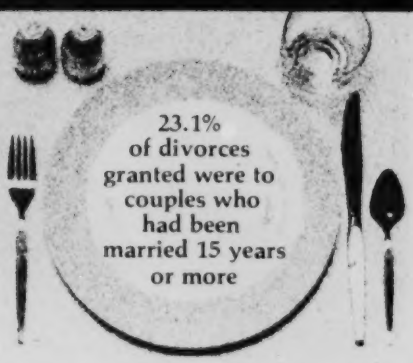
In papers on file here this week, Schneider was charged by his estranged wife with cutting through the support beams of their home in Carteret with a chain saw last July 23.

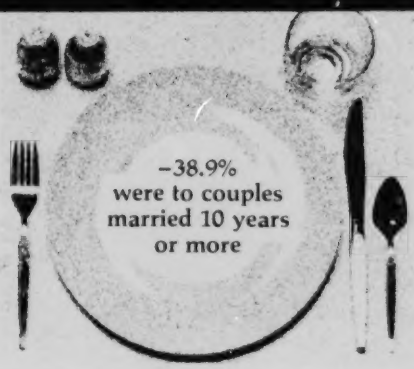
Schneider told authorities that cutting up the house was his idea of complying with New Jersey's divorce laws which require fair and equitable division of property, an attorney familiar with the case said.

Housing inspector Leonard A. Zaleski said he found rafters, the shingles and roof decking of the home cut through. He said floor joists were also cut through near the walls, making the building unfit for habitation.

Schneider's wife of 33 years, Phoebe, is suing for a divorce on the grounds her husband would "constantly and continuously bring women into the marital home." She filed the additional charges of malicious damage to the home last Friday.

Middlesex County Court Judge Joseph J. Takacs ordered Schneider to appear Sept. 15 to show cause why he should not make repairs or pay rent on the home.





firm. In two years his salary had increased from $18,000 per year to $27,500.

In 1975, Ethelyn was granted a divorce on grounds of abandonment. She asked for temporary support while she finished her medical education, saying she would find part-time work whenever possible. She was awarded $100 a week as long as she did not remarry and continued her studies. Judge Bentley Kassal decided that the question was not one of a wife's ability to support herself but of equal opportunity.

In my opinion, the answer to this is that, under the circumstances, the wife is also entitled to equal treatment and a break, and should not be automatically relegated to a life of being a well-paid technician laboring with a life-long frustration as to what her future might have been as a doctor but for her marriage and motherhood.

But the appeals court did not agree with Judge Kassal and reversed his decision the next year. It held that Ethelyn's desire to become a doctor was of recent origin, not contemplated during the marriage, and that as a skilled secretary she could earn $10,000 and had no right to extra support.

What if a husband and wife informally agree to help each other earn degrees? Would such an arrangement have protected Ethelyn Morgan? It didn't help Greta Shetney.

PROPERTY DIVISION

Factors a Wisconsin court should consider

Under the new divorce law a Wisconsin court is directed to divide property* equally, but may adjust the distribution in light of the following factors:

(1) The length of the marriage.

(2) The property brought to the marriage by each party.

(3) The contribution of each party to the marriage, giving appropriate economic value to each party's contribution in homemaking and child care services.

(4) The age and physical and emotional health of the parties.

(5) The contribution by one party to the education, training or increased earning power of the other.

(6) The earning capacity of each party, including educational background, training, employment skills, work experience, length of absence from the job market, custodial responsibilities for children and the time and expense necessary to acquire sufficient education or training to enable the party to become self-supporting at a standard of living reasonably comparable to that enjoyed during marriage.

(7) The desirability of awarding the family home or the right to live therein for a reasonable period to the party having custody of any children.

(8) The amount and duration of an order granting maintenance payments to either party, any order for periodic family support payments and whether the property division is in lieu of such payments.

(9) Other economic circumstances of each party, including pension benefits, vested or unvested, and future interests.

(10) The tax consequences to each party.

(11) Any written agreement made by the parties before or during the marriage concerning any arrangement for property distribution; such agreements shall be binding upon the court except that no such agreement shall be binding where the terms of the agreement are inequitable as to either party. The court shall presume any such agreement to be equitable as to both parties.

(12) Such other factors as the court may in each individual case determine to be relevant.

(Wisconsin Statutes 247.255)

Within this framework, the wife who put her husband through a professional school, the wife who stayed at home for 20 years caring for a large family and the wife who worked without pay in her husband's business can receive credit for their contributions when the property is distributed.

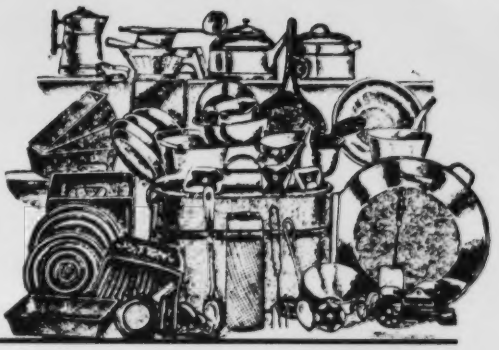
All assets owned by either party (except inheritances) means just that. If it turns out later that someone deliberately or negligently omitted to disclose ownership of, for instance, some stocks tucked away several years previously, those stocks will be put in trust for the other spouse and any children.

Assets include money or items worth $500 or more that were given away or sold within a year before the divorce action was filed.

*Inherited property may only be subject to division if the court finds that the refusal to divide such property would create a hardship on the other party or on the children of the marriage.

"According to the ideal scheme of the pecuniary culture, the lady of the house is the chief menial of the household."

THORSTEIN VEBLEN (1857-1929)
The Theory of the Leisure Class, 1899



The True Story of Greta Shetney

Greta and Orville were married for 16 years before their 1968 divorce. Greta believed they had agreed before they were married that Orville would help her to get her Ph. D. if she would first help him get his.

Greta lived up to her part of the bargain. She supported the family through her earnings and savings, and assumed debts totalling $11,000 on real estate and an automobile.

At the time of her divorce, Greta was 42, earned $7,300 a year and needed further education to advance in her field. Having completed his degree. Orville earned substantially more.

The court refused to honor the agreement, holding that its terms were so vague that a jury could not determine its nature and extent. The agreement had never been put into writing, and so the court held that Greta had not proved there was a contract. Orville was not required to live up to his end of the bargain. And Greta was left to fend for herself.

The new 1977 Wisconsin divorce law states clearly as its purpose: "It is the intent of the legislature that a spouse who has been handicapped socially or economically by his or her contributions to a marriage shall be compensated for such contributions at the termination of the marriage, insofar as this is possible, and may receive additional education where necessary to permit the spouse to become self-supporting at a standard of living reasonably comparable to that enjoyed during the marriage..."

Had Anne Graham, Ethelyn Morgan and Greta Shetney been divorced under Wisconsin's new divorce law, all would have been entitled to some compensation for their own lost opportunities or the opportunities they gave their husbands.

MAKING IT ON THEIR OWN

Even with a more generous settlement, the divorced wife may have serious and unanticipated financial difficulties–particularly if she has child care responsibilities or is attempting to return to paid employment after a long absence from the work force. The following case histories show some of the problems a divorced woman may face:

An Unfinished Story

Hester met William Lee in college and married him in 1946 when she was 21. A chemistry major, she quit school to move to Wisconsin with William so that he could get his Ph. D. at the University of Wisconsin. She enrolled in school there for a semester. But after a miscarriage and some other disappointments, Hester dropped out and worked for a year or so, until her first child was born. Then, she felt her primary responsibility was to her family. She put aside thoughts of further schooling or a career, and devoted herself to her husband and children.

As a professor's wife and the mother of four children, Hester's life was always busy. She cooked and cleaned, decorated and landscaped their home, kept a garden, painted and made some home repairs. She became a skilled seamstress and frequently made clothes for herself and the children. She cared for the children's educational and entertainment needs and chauffeured them everywhere until they were old enough to drive themselves. She was a good professor's wife–attractive, gracious, an attentive hostess at the endless required dinners and social functions. William's career became her career, and he soon rose to the position of department chairman. During his 10-year term in that position, Hester, as the department chairman's wife, dutifully organized a large fall reception each year for 50 to 60 professors, graduate students and their spouses. Often it was held in their home, but always it was her responsibility to organize the affair, arrange for the food, keep the glasses filled, charm William's colleagues and generally be an asset to his career. The special dinners for William's graduate students and social obligations with colleagues all became her responsibility.

In addition, Hester was a model contributor to the community. She was active in the League of Women Voters and the Women's Political Caucus, in her church and in volunteer work. She served as the volunteer

"The virtuous woman became the good housekeeper or, more comprehensively, the good homemaker. Social life became, in large measure, a display of virtuosity in the performance of these functions–a kind of fair for the display of comparative womanly virtue. So it continues to be..."

JOHN KENNETH GALBRAITH (1908-)
The Economics of the American Housewife, 1973

coordinator for Dane County Social Services and later as church secretary. As three of her four children grew up and left the home, she found more time to participate in community activities.

Then the Lees' marriage began to fall apart. Hester began courses in real estate and marketing at Madison Area Technical College and got her broker's license the year William moved out and left her alone with their teenaged son. It quickly became clear to Hester that she would have to find some way of earning a living. What sort of work could she do? She had cut short her education to care for her family. She had not worked at paid employment for nearly three decades. Her many abilities as a hostess, wife, mother and community volunteer did not translate into easily marketable skill. The responsibilities she had assumed for so many years–activities which she had always thought were productive, valuable, and socially necessary–were irrelevant in the paid job market.

Hester and William were divorced after 29 years of marriage. The settlement was fair, Hester thought. She got the house and car and custody of her teenaged son, and they divided the rest of the property. It was agreed that when she started working, one-half of her earnings would be deducted from her maintenance payments, and the child support payments would continue until her youngest son turned 18. William was actually quite generous with the support payments and agreed to her request in 1978 for an increase when inflation and taxes took their toll. He even offered to give her a loan to start up her own business.

But the settlement also stipulated that she would be given just three-and-one-half years to become financially independent of William. For Hester, starting a new career at age 51, after 29 years as a full time homemaker and mother, was like being tossed off the edge of the universe. As a homemaker she was used to managing her own home and family, being her own boss, making her own decisions. She had never learned the rules of the employe game–subordinating oneself to the employer, never challenging the decisions of a supervisor, not rocking the boat. And the usual jobs women without marketable skills must take–waitressing, clerical work, retail sales–wouldn't give her an income adequate to keep up with the mortgage payments on her home. To help ease the burden of those payments her daughter and son-in-law moved in with her for one year and paid rent.

MAINTENANCE PAYMENTS

Under the new divorce law a Wisconsin court may grant an order requiring one party to make maintenance payments to the other for a limited or indefinite length of time after considering the following factors:

(1) The length of the marriage.

(2) The age and physical and emotional health of the parties.

(3) The distribution of property made in the divorce settlement.

(4) The educational level of each party at the time of marriage and at the time the action is commenced.

(5) The earning capacity of the party seeking maintenance, including educational background, training, employment skills, work experience, length of absence from the job market, custodial responsibilities for children and the time and expense necessary to acquire sufficient education or training to enable the party to find appropriate employment.

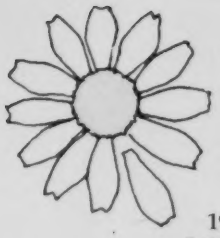
(6) The feasibility that the party seeking maintenance can become self-supporting at a standard of living reasonably comparable to that enjoyed during the marriage, and, if so, the length of time necessary to achieve this goal.

(7) The tax consequences to each party.

(8) Any mutual agreement made by the parties before or during the marriage, according to the terms of which one party has made financial or service contributions to the other with the expectation of reciprocation or other compensation in the future, where such repayment has not been made, or any mutual agreement made by the parties before or during the marriage concerning any arrangement for the financial support of the parties.

(9) Such other factors as the court may in each individual case determine to be relevant.

(Wisconsin Statutes 247.26)



In 1976 there were 2,133,000 marriages in the U.S.

There were 1,077,000 divorces granted in the same period

A 1975 national study showed that alimony was awarded in only 14% of divorces

Hester took a job with another woman who sold real estate independently out of her own home. But she didn't make enough money to become independent, and she didn't really enjoy selling. Wanting to stay close to the real estate field, Hester thought of using her two-year associate degree for some related work in housing appraisal or apartment management.

After taking courses at Madison Business College in typing, accounting and office management, Hester found a job as a secretary and rental agent for an apartment complex. She had never had a job like that before and was nervous about it. The hours were long, the pay was low and the work was confusing. But Hester, realizing that her employment opportunities were limited, felt she had to stick with the job even though she was unhappy with it. Then, in the midst of a management shake-up, an attractive young woman asked for both a secretarial job and an apartment. Hester was fired and the younger woman was hired.

Meanwhile, her daughter and son-in-law had moved out and Hester decided to take the next big leap, sacrificing her privacy for the sake of continuing the rental income. She took in boarders, first a Japanese couple, then a series of students for short time periods. She managed to keep the spare rooms rented most of the time.

Hester applied for any housing related job she could find, but with no success. Eventually she decided to try to set up her own home management business for people who leave town on a leave of absence and want their homes rented and managed professionally. She convinced her ex-husband to give her a start-up loan and began taking a course at the University of Wisconsin-Extension on how to set up one's own business. She mailed out 500 letters to potential customers, mostly university professors and department heads who might be called out of town for a year. She publicized her services and worked hard at it. Out of those 500, only a couple responded.

Hester became severely depressed. She kept up a good front at social gatherings, went to square dances and committee meetings to keep active, kept herself attractive and at 53 didn't show her age. She was a striking woman, well-dressed, gracious, but on the inside she felt she was falling apart. She had lived the model life, done all the right things expected of a professor's wife, been a good mother to her children, an asset to her husband's career, self-sacrificing, a pillar of the community. But that ideal world she had shared for 30 years suddenly evaporated into thin air, and at 53 she wasn't at all sure what the future held in store for her.

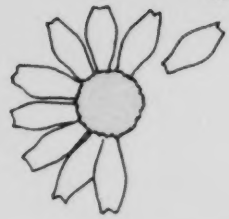
Hester knows she will eventually have to face up to selling her home, but she hopes to hang onto it at least until her son finishes high school. As for how she will support herself between then and the time she becomes eligible for Social Security benefits, that is unclear. She still hopes she can make a go of it running her own home management business, but she is finding she has competition from a free rental service the university runs for its staff and students. She is increasingly aware that becoming a successful entrepreneur demands more vitality, assertiveness, competitiveness and nerve than many women in her situation could muster. Her age, her lack of paid work experience and job skills severely restrict her in her efforts to find satisfying employment at a reasonable wage.

Though on occasion the future is almost too much for Hester to face up to, she is determined to keep struggling, knowing the odds are against her.

The True Story of Klara Bolden

Klara Bolden had been married for 29 years and had spent her married life taking care of her home and raising 10 children. When she and her husband, a government employe earning $30,000, were divorced several years ago she was awarded $750 a month alimony and child support payments to support herself and the five youngest children still living with her, an arrangement she and her husband worked out between themselves. (Note: after taxes, he had approximately *double* this monthly amount for himself.)

A few months later, Klara was threatened with a jail sentence for contempt of court because she had not moved out of the family residence so it could be sold to satisfy the terms



–and was paid regularly in less than half the cases

only 44% of divorced mothers who were granted custody of their children were awarded child support payments

–and of these, less than half were receiving it regularly

of the divorce, which gave a half interest in the house to both the Boldens. Klara protested that although she was willing to move out of the house and willing to go to work to provide for herself and her children, she could not find a job. "I am 52 years old," she explained, "and after 29 years of marriage, I have no marketable skills." Because real estate agents and lending institutions were reluctant to accept her alimony and child support payment as reliable income, she had been unable to purchase another, less expensive home. The unsympathetic judge told her she would have to accept a "radical change" in her lifestyle.

"It was a vicious circle," she said. "I couldn't get a job because I did not have an address, and nobody would rent to me because I did not have a job."

WHO GETS CUSTODY OF THE CHILDREN?

For the past hundred years Wisconsin courts have almost always awarded mothers the custody of any children. In 1921 when Mrs. Jenkins was given custody of her young son, the court explained its reasoning in these words:

> For a boy of such tender years nothing can be an adequate substitute for mother love–for that constant ministration required during the period of nurture that only a mother can give because in her alone is duty swallowed up in desire; in her alone is service expressed in terms of love. She alone has the patience and sympathy required to mold and soothe the infant mind in its adjustment to its environment. The difference between fatherhood and motherhood in this respect is fundamental and the law should recognize it unless offset by undesirable traits in the mother.

Over the past 10 years this century long automatic bias in favor of the mother has been evaporating.

The True Story of Dorothy McGee

Unlike Klara Bolden, Dorothy McGee of Kewaskum received the family home in her divorce settlement. But she was forced to sell it, since she could not afford to make the mortgage payment, pay the taxes, or keep up with maintenance costs.

Dorothy did not have a job and she did not want to go on welfare. All she had was the money from the sale of the house. While she looked for work, she and her four children moved from one campground to another for nearly three months. They used public rest rooms and showers and cooked on camp stoves.

Finally, a Kewaskum couple took them in, and Dorothy had a better hope of getting a job.

THE CHILDREN OF DIVORCE

An enormous number of divorces involve children. In 1976 over 63% of Wisconsin divorces were between parents of minor children. In 1976 alone Wisconsin divorces involved a total of 18,721 children under age 18. It is estimated that 4 out of 10 American children in the 1970s will not be raised by their natural father and mother in the same home.

There were 7.7 million families headed by women in the U.S. in 1976

One-third of the families headed by women had incomes below the poverty line

Less than 6% of families headed by men were poor

UNDER WISCONSIN LAW

The new Wisconsin divorce law reads:

"In making a custody determination, the court shall consider all facts in the best interest of the child and shall not prefer one potential custodian over the other on the basis of the sex of the custodian. The court shall consider reports of appropriate professionals where admitted into evidence when custody is contested. The court may consider the wishes of the child as to his or her custodian. The court shall consider the following factors in making the determination:

a. The wishes of the child's parent or parents as to custody;

b. The interaction and interrelationship of the child with his or her parent or parents, siblings, and any other person who may significantly affect the child's best interest;

c. The child's adjustment to the home, school, religion and community;

d. The mental and physical health of the parties, the minor children and other persons living in a proposed custodial household;

e. The availability of public or private child care services; and

f. Such other factors as the court may in each individual case determine to be relevant."

(Wisconsin Statutes 247.24)

The new law even allows for custody to be granted to both parents jointly, if they both prefer that arrangement and the court agrees that it would be in the best interest of the child.

Today more fathers than ever are actively sharing in raising their children and more are asserting their right to be seriously considered as the custodial parent at the time of divorce. These new opportunities have opened new dangers as the next true story shows.

A Near Miss

Paul and Sara had agreed to a trial separation which was to begin when Sara found a job.

They had discussed the prospect of sharing custody of five year old Brian and both agreed he should not be denied either a mother or a father. They decided to make the separation as amicable as possible, respecting each other's rights as parents and allowing Brian to spend a two-week period with each parent. Paul, however, said he wanted a written agreement on property settlement and the financial obligations of each parent to the child. After Sara moved out, Paul said he wanted each parent to contribute 50 percent to Brian's support, although he was making twice as much as Sara was. That seemed unfair to Sara, but she was willing to go along with it if it would ensure that Paul paid half the child care costs. Otherwise the cost of day care would eat up her meager wages, making it impossible for the trial separation to work.

Sara went to see a lawyer to have the written agreement drafted and then gave it to Paul to look over, thinking that would be the end of it. It was Paul's trip to his lawyer that turned an amicable arrangement into a nightmare of legal maneuvering and game-playing that could have destroyed a five-year-old boy in the process.

Paul had always been a worrier, and his lawyer played on all his fears by bringing up all the "what-if" situations that theoretically can occur when a marriage falls apart. After several hours of talking to his lawyer, Paul was convinced he should file for divorce. Hysterical and defensive, he called Sara that night to tell her his intentions. The property settlement was to include Paul keeping the house and Sara receiving a sum equal to one-half couple's combined equity in the house. Sara would also get one-half of the amount presently in Paul's retirement fund (he was 30). There were some things in the house Sara had wanted, but she gave them up to Paul rather than fight over them. Paul suggested informally at that point that if he were paying 100 percent of the cost of child care, as he was doing at the time, he should have custody of Brian 100 percent of the time and that shared custody should be dependent upon Sara's ability to pay 50 percent of child care costs. After talking further with his lawyer, Paul said he wasn't sure a shared child custody arrangement could work and was considering asking for full custody.

Meanwhile, Sara's lawyer had

The median income of families headed by women was $5,762

The median income of families headed by men was $15,303

The median earnings of women working fulltime, year-round, were 60% of the earnings of men

suggested she and Paul go to a counselor with their son. The three began seeing a child psychologist regularly in October. Brian, a sensitive boy, had already been showing signs of stress at the changes in his life–he was having difficulty in making simple decisions and had begun to develop sudden fits of uncontrollable rage. The psychologist strongly advised them to work out a child custody arrangement on their own without dragging it into the courts, a procedure he said always ended in an ugly battle that served no one and could hurt the child most of all.

Several months passed and Paul announced he was planning to spend three weeks in California visiting his parents. He asked Sara if he could take Brian along and Sara consented. But the night before the trip, when she went over to say goodby, Sara discovered that Paul had signed a three-page affidavit asking for

A Mother For All Weathers

Emily has a deep, well-modulated voice. She knows her own mind on matters, is an independent woman and is aware that in many ways she has been more than usually favored in life. Now about 50 years old, she is one of that relatively small minority of Black women of her generation whose parents were able to see that she completed college and who successfully launched herself in the late 1940s into a professional career.

She met and married her husband in Milwaukee when she was 25 and bore one daughter, Kathy, four years later. Kathy's parents' marriage ended in divorce when she was 12 years old and it was automatically assumed by everyone that Kathy would live with her mother. Emily still recalls with a kind of wry humor the comments made to her by the judge when he approved the very low level of child support payments that she had agreed would be sufficient. "But," here the judge expressed surprise, "you are capable of earning as much money as your husband... so," here with an air of righteousness, "if you want her to have cake, *you* can buy it."

So buy it she did. Throughout Kathy's teen-years, Emily did not lower her standards. Acutely aware that her daughter's musical talent needed training and nurturing, Emily sought out good teachers and from her own salary underwrote the costs of tutors and private lessons. She turned down an opportunity for a more prestigious and better paying job because it would have involved too much travel, and overnights away from home. She limited her own social life to invest the time and emotional energy necessary to keeping her daughter's intelligence challenged and her study habits disciplined, sometimes painfully missing the reinforcement and support that another active parent could have provided.

Kathy is now in her second year of college, and doing well. Emily is not only providing for all her daughter's basic expenses–for she is determined to give her as good a start in life as she herself had been given–but she made a much greater sacrifice. She gently persuaded her daughter to move toward that independence so fundamental to maturity and loosen the ties enough to attend college in another city.

She acknowledges that this conscious attenuation of what had been for both of them an emotionally intense relationship has been more difficult for herself than for Kathy. Kathy had to struggle with a feeling of guilt at leaving her mother alone but, after all, was embarking on an exciting new challenge. It was Emily who was left behind with the empty nest.

Should Kathy's father have made equal contributions to his daughter's college education? Under the law, since an individual is now considered adult at age 18, he has no responsibility whatsoever. When asked whether she pressed for him to help pay Kathy's college expenses, Emily shrugged ruefully and said, "He is an intelligent man as I am an intelligent woman. He knew she was ready for college, as I did. I didn't think that I should have to fight and beg for books and tuition from him." So quite within his legal rights, Kathy's father chose to be a fair weather father only, and confined his contributions to occasionally buying Kathy clothes or treats.

temporary custody of their child, giving her only some vague "reasonable visitation rights" without any power to make decisions about her son's life.

Sara was badly frightened by the document, which named her as a defendant. She was under the impression Paul had already agreed to shared custody, but with each visit Paul made to his lawyer, he seemed to return with a new poke at a wound she thought had been healing on its own.

When Sara told her own attorney of the new developments things began to grow ugly. Her lawyer suggested that in order to prepare a defense, she think of facts about Paul that could be used against him in a court battle over child custody and identify potential witnesses that she could use to build her case. Then in November, Paul, at the suggestion of his lawyer, asked Sara to stop by his lawyer's office to pick up the summons for the custody hearing, claiming he just wanted to "save her some embarrassment" by avoiding sending a sheriff out to her apartment. He didn't mention that it would save Paul the $30 fee charged by the sheriff's department for their service. When Sara called the lawyer to explain she couldn't make it that day because she was working, he got rather nasty and implied the sheriff would be "chasing you around the country on Turkey Day." Sara called Paul and asked him to call his dog off her, and he finally agreed to give her until the following Monday to pick up the summons.

As the court battle neared, Sara's lawyer called Paul's lawyer to attempt an out-of-court settlement and find out what he really wanted. Referring to a man Sara had been dating, Paul's lawyer said Paul wanted her to "stop sleeping around with other men" and painted her as a selfish woman just out to have a good time.

Meanwhile, Sara's lawyer intervened. Suspecting Paul's lawyer was asking for child custody so Paul could avoid paying child support, as leverage for a better property settlement, or to scare Sara into returning to Paul, her attorney suggested they go back to the child psychologist for another visit before the court hearing.

It was quite plain to the psychologist that events were taking their toll on Brian, who had by this time fallen prey to assorted infections and had lost weight when he should have been growing.

At the end of the visit the psychologist, however, reaffirmed that he thought their best course of action would be for both to continue parenting and sharing custody of Brian. At the suggestion of Sara's lawyer, the psychologist put his opinion in writing and sent a copy to Paul's lawyer.

The letter worked, and the custody hearing was called off, with Paul's attorney agreeing to draft a new trial separation agreement. But Sara is still worried over the future legal hassles of a divorce settlement that began quite amicably and yet within a few months threatened to tear apart all three of them. It turned out that despite their efforts to shield Brian from any knowledge of their clash over his future, he had quite accurately picked up on what was going on. On one occasion, trying to reassure Sara, he had said, "Daddy won't take me away from you, Mommy."

Today Sara shudders at the thought of how an extended court battle over Brian's custody would have irrevocably damaged his self-confidence and his confidence in the two adults he cares about most.

The level of Child Support

Q. *How much do courts usually order to be paid for child support each month?*

A. The amount ordered depends upon the income(s) of the parents, the number of minor children involved and many other factors. There is no general rule of thumb or consistency: some judges are much more generous than others and the same judges have been known to order quite different amounts to different families in very similar circumstances. It is extremely rare, however, for a wage earning parent to be ordered to pay more than half of his or her income, no matter how many children there are or how extreme the need. Amounts ordered have usually been very modest and have frequently ranged from $12-50 per week per child.

Things should be brighter for the children of those who file for divorce in Wisconsin after February, 1978, however. The new divorce law spelled

out as a basic principle: "It is...the intent of the legislature that the standard of living of any minor children of the parties be maintained at the level the children would have enjoyed had the marriage not ended, so that insofar as is possible, the children will not suffer economic hardship."

Q. *When my ex-husband and I were divorced in 1976, he agreed in the stipulation (which was incorporated in the court order) to pay college expenses for our three children. Our oldest girl will graduate from high school in June and plans to start college in the fall. Now my ex-husband says he doesn't have to pay her college expenses, since she will turn 18 in July and he is under no obligation to support her past the age of majority. Is this true?*

A. It is true in Wisconsin that no parent is required to support a child aged 18 or over; this has been so since the age of majority was reduced from 21 to 18 in 1973. However, no law prevents a parent from voluntarily agreeing to provide full or partial support for an adult child. In your case, your former husband voluntarily obligated himself to pay college expenses, which normally occur after a child becomes an adult. He is bound to observe the stipulation, which the judge approved and incorporated into the divorce decree. Without such a stipulation, however, he would have no obligation to pay college expenses.

Q. *My ex-husband and I divorced three years ago after 22 years of marriage and four children. The terms of our "settlement" were most unfair to me, but it was the best I could do at the time. Since then, I have been barely scraping by with inadequate alimony and child support, the income from my part-time job as a saleswoman in a department store, and the money earned by the kids still living at home, who have all pitched in and done what they could to help. Now the twins are about to turn 18. When they do, all the alimony and child support stops, according to our decree. I am 52 years old. I earn the minimum wage and have virtually no hope of finding a better paying job since my "career" has been that of wife and mother. I've been unable to find a full-time job, and I'm not sure I could handle one physically since I have emphysema and am not very strong. Under the new law, can my ex-husband, who is a professional man earning better than $50,000 annually, be required to continue to make payments to me?*

A. Under the new law, you may go into court after February 1, 1978 with a new action to modify your divorce judgment (this means you will have to hire a lawyer and pay another filing fee). You may present your situation to the court, which may decide to increase the amount of your remaining alimony or maintenance payments or perhaps to extend the time period in which you may receive payments. Since this is a new provision, it is impossible to predict your chances of success. You should be aware, however, that your former husband will have many potentially persuasive arguments against your claim to more money; and since in the past limited term alimony could not be extended or increased, courts may be extremely reluctant now to give you the relief you need.

Q. *My husband and I are about to be divorced. He has agreed to pay an adequate amount of child support for our children. I'm worried that if the cost of living keeps going up the way it is now, the money won't be enough. If we need more, do I have to go to court again?*

A. Recently, a divorce decree in Dane County included a stipulation that support money awarded to a mother of three be adjusted annually according to the Consumer Price Index. If the cost of living goes up one percent in a year, the original amount of support money would be increased by one percent, and vice versa if it declines. Although this cost of living adjustment (COLA) is found in many union-negotiated labor agreements, courts may require COLA clauses in family support orders to have an upper limit and to take into account all appropriate circumstances. Such clauses should also spell out such details as which consumer price index is to be applied and how and when.

The new divorce law specifically provides that a judgment ordering support or maintenance payments may be revised because of a change in the cost of living as measured by the federal Bureau of Labor Statistics.

LOVE LOVE LOVE

ENFORCEMENT

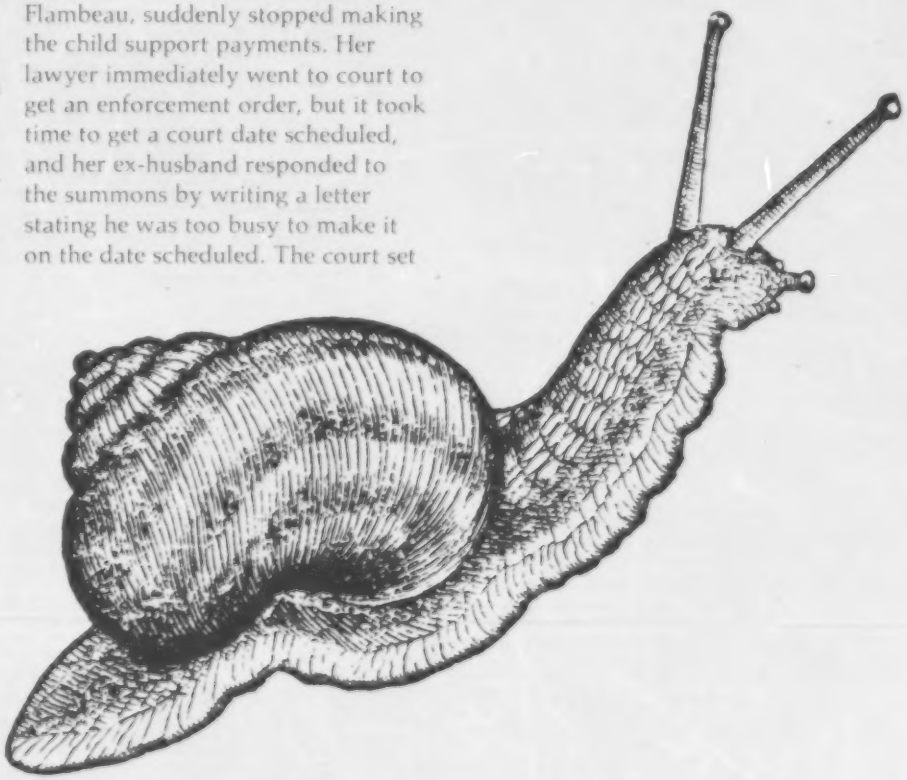
Getting enforcement of court orders for child support has proved prohibitively difficult for hundreds of thousands of women. In September, 1975, Judge David Linn of Cook County (Illinois) Divorce Court was quoted in the Chicago Tribune as saying, "The courts have fallen flat on their faces. Too often court orders aren't enforced. Many men pay more attention to traffic tickets. Women are forced on welfare when their ex-husbands could contribute something. The courts aren't equipped to collect money, and other agencies take too long. People could starve to death." Sherry Dennis is one Wisconsin woman who recently learned how complicated, cumbersome, expensive and slow the enforcement mechanisms have been.

The Support That Stopped

Sherry Dennis, a mother of four who had been living in Lac du Flambeau in rural northern Wisconsin, is a proud woman who has been struggling to stay off welfare ever since her divorce in August, 1977. Two months before the divorce she sold her home and moved with her children, aged 6, 13, 14, and 15, to Milwaukee, where she took a job as a waitress. She wanted to work days so she could be at home with her children at night, but found the meager tips for daytime work didn't meet her rent payments. So she switched to night work, where she makes $40 a week in wages and an additional $90 to $160 a week in tips. That and the $200 a month she got in child support payments–which amounted to $12.50 a week per child–from her ex-husband sufficed to pay her bills, with an occasional dipping into the savings account she had from the sale of her house.

Even with the additional tips from her night work, she is unable to afford babysitters. She prepares dinner for her children before going to work each night and leaves the oldest child in charge of the younger ones.

But in November, Sherry's ex-husband, a meatcutter for the Red Owl Supermarket in Lac du Flambeau, suddenly stopped making the child support payments. Her lawyer immediately went to court to get an enforcement order, but it took time to get a court date scheduled, and her ex-husband responded to the summons by writing a letter stating he was too busy to make it on the date scheduled. The court set a second date and notified him he would be in contempt of court unless he appeared this time. At this point three months had passed without Sherry receiving any child support payments and with her attorney's bills mounting. Finally her ex-husband appeared in court and signed a document giving his employer permission to deduct a wage assignment from his paychecks and to forward the payments to Sherry. In April, after going for five months without a support payment, Sherry was still waiting for the first check to come. She had not yet begun the legal battle of collecting back



payments for the five months that passed while she sought enforcement through the courts.

A fulltime homemaker and mother for most of her 17-year marriage, Sherry, at 35, had only two years of prior job experience as a waitress and as a supermarket bakery sales clerk. She briefly tried taking a vocational school course in drafting at the Milwaukee Area Technical College, but was forced to quit since the course work was quite technical and she couldn't squeeze in enough study time between the demands of her job and the needs of her four children.

Now Sherry is searching for a means of financing her way through some other kind of trade school program to learn a marketable skill that will help her find a permanent job with a livable wage. Ironically, she could probably qualify for free training if she accepted Aid to Families with Dependent Children. But Sherry, a proud woman who is determined to remain independent, wants to avoid going on welfare unless all her money runs out. "As long as I can support my children, I want no part of welfare," she said. Meanwhile, she is still trying to make ends meet with her waitress job and hoping the child support payments will start coming in again soon, a gamble that could help determine whether she ever gets the chance to learn a new skill and pull herself up to economic independence.

Elizabeth Easton is another Wisconsin woman who has struggled to get enforcement of the order for support payments for her children for two years. Her story illustrates one other point: that some women pay dearly for their reluctance to insist on fair and realistic settlements when support levels are being first established. Those, like Elizabeth, who have actually lived through the divorce process usually advise: assess what you will really need; be businesslike and firm, then get it in writing, cut and dried. Do NOT rely upon the faith that yours will be a civilized divorce between two mature individuals who will honorably live up to their spoken promises. If your husband turns out to be one of those whose sense of responsibility toward his children's needs does not falter, no harm will have been done by his agreeing in writing to pay specified sums toward their support. With many men, however, feelings and commitments change over the months and their pent-up anger and grief are frequently expressed through withholding financial support. In the words of one divorced father: "Why should I pay for something I'm not getting? Why should I pay for a family that is not mine any more? I'm angry at being cut out and I miss them, and I have better things to do with my money now." Or, as another put it, "The children are *hers* now. They won't starve, she'll see to that. All I'm doing is hassling her, and she deserves it."

Her Generosity Proved Costly

When Elizabeth Easton was divorced she was awarded a total of $20 a month for the support of Amy, Michael and David. She accepted such a low award because she believed the order to be temporary, one that would last only for the five months the children's father needed to complete graduate school. Her generosity proved costly. She learned the hard way that the level of support, once established, is hard to change.

But Elizabeth is not a woman who is easily discouraged. In the past two years she found that she had a personal strength that she had never previously suspected. She coped.

She coped with raising three children, on a budget carefully cut to the bone. She had to make all the household decisions and do the repairs on her own. She searched for, obtained and now holds a responsible full-time job. She had to move twice in one winter as the landlords put the houses she had rented up for sale. She borrowed money and bought a house so that the monthly payments for a roof over their heads are building them equity in their own home. She coped when her car broke down and when the old furnace in her new house died on her and had to be replaced. She did all the things a mother and father normally do between them, and on less money than she ever had before.

"Women must be educated out of their unthinking acceptance of financial dependence on man into mental and economic independence. Girls like boys must be educated to some lucrative employment. Women like men must have an equal chance to earn a living."

SUSAN B. ANTHONY

How did she do it? Her answer to that question was that she managed because she had to. Her three children are *her* responsibility. She found support especially from a group of close women friends. And, partly, she was impelled by a sense of deep anger at the injustices of the legal system as it operates with respect to setting and enforcing orders for child support payments. Elizabeth measures her success not only by the conventional yardsticks–that she has kept the children together as a family, parented them and supported them economically–but also by the way she feels about herself. She prides herself on being a thinking person, an individual and one who has been able to make her own decisions about herself.

Here is a summary of what happened in the two years following Elizabeth's divorce.

February, 1976
Divorce with order of child support payments of $20 a month for five months or until the father completed his studies, whichever was the shorter period of time.

August, 1976
Elizabeth appealed for an increase to $150 a month, since the time had come for her ex-husband to graduate. Also, her rent had increased.

November, 1976
Appeal heard in court

February, 1977
Judge issued his decision: no increase, $20 a month for three children is enough. He said "sufficient change in the financial circumstances of the parties did not exist."

February, 1977
Elizabeth appealed the decision to the State Supreme Court.

July, 1977
With the Supreme Court hearing imminent, Elizabeth's ex-husband agreed to settle and consented to an order to pay $200 each month in child support. One payment came.

November, 1977
Elizabeth requested that contempt of court proceedings be set in motion.

March, 1978
The court heard Elizabeth's case and ordered the children's father to start paying the $200 a month support payments and $125 a month toward the arrears, or go to jail.

In these two years the children's father contributed the grand total of $440 toward their support. His present employment pays him $182 a month net more than Elizabeth's job pays her.

Enforcement

Q. *Has the new Wisconsin divorce law made child support and maintenance orders easier to enforce?*

A. Yes. If Sherry Dennis or Elizabeth Easton had been divorced under the new law, they would not have had to hire an attorney and set another date in court to get enforcement of the child support order and they would have received what was owed within seven weeks of the first missed payment.

Under the new law *every* court order for maintenance, family support, or child support includes an order for a wage assignment. As long as the parent makes payments promptly and in full, the wage assignment is just a sleeper. As soon as a payment is 20 days overdue, however, the custodial parent may inform the Family Court Commissioner's office.

That office must, within 10 days, send by certified mail a notice telling the non-paying parent that his or her next paycheck will be docked the amount of money owed unless a request for a hearing is received within the 10-day notification period. At the hearing the parent has the right to show that the non-payment was because of extraordinary circumstances that were beyond his or her control. If such a showing is not made, the wage assignment goes into effect and payments resume.

In addition, the new law makes available to a person owed support payments every remedy which is available to other creditors where a debtor has failed to meet his or her obligation to pay. The debtor's property may be seized; a money judgment may be issued against him or her; contempt citations, punishable by fine and a jail sentence up to six months are also available. However, realizing that a person who is jailed can't work to make support payments, the courts generally impose the jail sentence with the condition that it not be served as long as future payments are made. Or the court may let the parent out of jail on Huber law privileges to work.

The new law also applies to child support cases that had been decided before it was enacted but which have been reopened by the custodial parent bringing a new action for enforcement of the support payments.

"Woman has been the great unpaid laborer of the world... She is not paid according to the value of the work done, but according to sex."

SUSAN B. ANTHONY

Q. *My ex-husband suddenly stopped sending his court-ordered child support payments last November. I've been trying to contact him by phone and by mail, but he must have moved. Is there any agency that can help me?*

A. Yes. Since early 1977 every county in Wisconsin has a Child Support Agency whose job it is to locate missing parents and establish or enforce court-ordered child support payments. Section IV-D of the federal Social Security Act of 1975 mandated that these services must be provided to all U.S. citizens. In Wisconsin they are usually free or at a nominal cost.

The agency will provide any resident with the following services: locating missing parents, establishing paternity, establishing child support levels and enforcing payments.

This is how it works. The agency attempts to locate the missing parent by contacting his or her last employer, the driver license bureau, the post office, relatives or associates. If there is no success at the local level, it requests help from the state Parent Locator Service in Madison, which checks with the state Unemployment Compensation Division, the Departments of Revenue and Transportation, post offices and, when applicable, the Crime Information Bureau of the State Justice Department. The state

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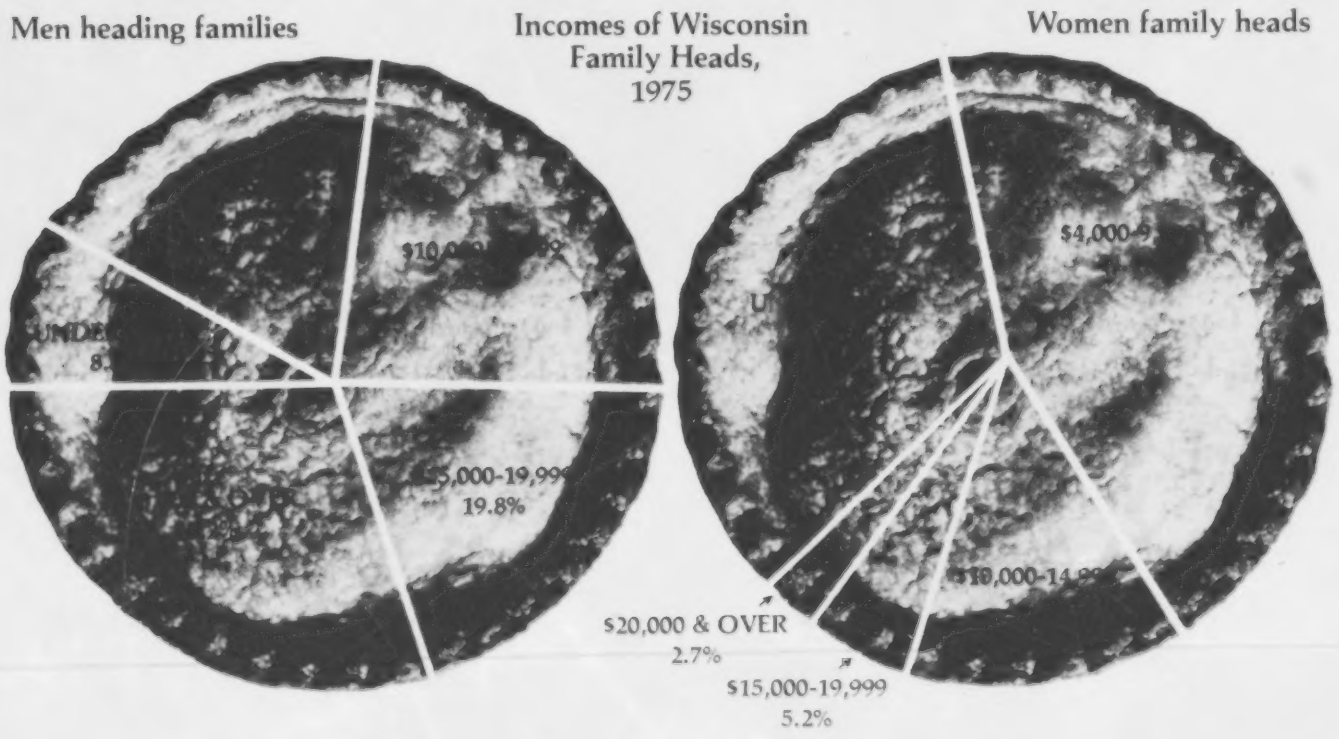
FAMILIES HEADED BY WOMEN ARE POORER



One of every 11 Wisconsin families was headed by a woman in that year.

Totals do not add up to exactly 100% because of independent rounding.
Source: 1976 Statewide Citizens Survey by Wisconsin Department of Administration

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MORE THAN A THIRD OF U.S. MARRIAGES NOW END IN DIVORCE.

Parent Locator Service may also check with sister agencies in other states or at the federal level.

Once the missing parent is found, he or she is asked to make the needed payments. A civil complaint may be filed to collect the payments. In some cases, a criminal complaint to jail the non-payer for non-support or abandonment may be issued if the custodial parent wishes it. (As a condition of receiving welfare, any parent who receives Aid to Families with Dependent Children must have already signed over collection rights to the welfare department.)

If the missing parent is living in another state, the district attorney then initiates a petition through the Uniform Reciprocal Enforcement of Support Act (URESA) which requests that the district attorney in that county bring the parent before the court in that locality. That court may order child support payments to be made and may even impose a wage assignment. The custodial parent is represented by a prosecutor, but is still at a disadvantage because she or he is not there in person to answer questions. For this reason it sometimes happens that the court decides to lower the level of support payments previously established.

Do not expect instant results! The process can take many months while court summonses and hearing dates are established and the procedure takes its course.

STIPULATION CHECKLIST

In preparing a final stipulation agreement for your divorce, you may wish to make provisions in the following areas and should discuss them with your attorney:

Property Division

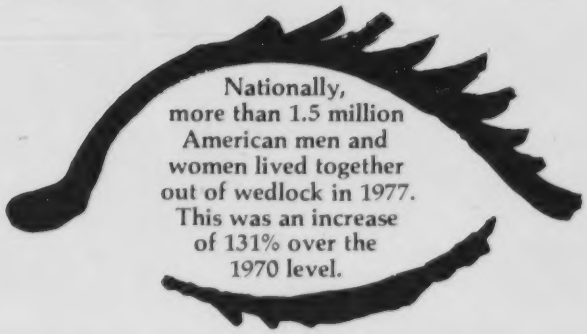
1. How are your belongings, savings, property to be divided?
2. Who will pay which debts? It may be advisable to refinance debts that both of you have signed for so that the one who is relieved of the debt does not have her or his name on the note. This will ensure that the lending agency will not still consider both of you equally responsible for repayment. You may wish to treat debts as part of maintenance or support so that they will not be discharged by any bankruptcy declared by the person to whom they have been assigned. This could avoid repossession of household items from the person who had been relieved of the debt by the divorce court.
3. Should the sale of your family home and the distribution of your equity be postponed to enable your children to live in the same house until they graduate from high school?
4. If the homestead is to remain in joint ownership, who will be responsible for mortgage payments, taxes, insurance, and repairs? Should the one responsible for making payments have extra life insurance to cover the mortgage payments in the event of his/her death? Should the one responsible for making mortgage payments, if not residing in the home, be required to post bond so there is some recourse for the other person if payments are not made? When will the property be sold? How will the proceeds be divided?
5. Should either of you retain eligibility for any pension or disability benefit rights which may be in the other person's name?
6. Should property division be achieved by periodic settlement payments over a number of years (to save dismantling a business, for instance, or to avoid a business owner having to go into debt)? This can be a tax advantage to the business owner, but a *disadvantage* to the receiver of the payments, for the tax burden may be shifted to the recipient.
7. Do you both understand and agree to the tax consequences of the property division?

Maintenance Payments

1. Should maintenance payments be ordered?
2. What purpose should they serve?
3. When should they end? (At a fixed date? On remarriage or completion of education? When the receiver's own earnings reach a certain level?)
4. Do you both understand and agree to the tax ramifications?
5. Should a provision be included for automatic adjustments in payments to reflect increases or decreases in the cost of living or in the payer's salary?

Child Custody

1. To whom should custody of each child be awarded? (The father? The mother? Both parents jointly?)
2. If to one parent:
   a. What are the visitation terms? (Should there be fixed times or



Q. *My husband walked out on me and our three children four years ago. I believe he is working in Georgia but do not know his address. What are my chances of actually receiving some child support payments if I get help from the Parent Locator Service?*

A. We cannot accurately predict chances of success for any particular individual, but figures collected by the Child Support Agencies are encouraging. In 1977 the Wisconsin Parent Locator Service in the Bureau of Child Support received 58,523 requests from Wisconsin county agencies for help in locating missing parents. Of those, 53,523 were from families receiving Aid to Families with Dependent Children (AFDC). About 10,000 absent parents were located that year, with $24-million in child support payments collected for Wisconsin families.

The success of locating and collecting child support payments from missing parents who live outside Wisconsin varies greatly, depending on which state the parent lives in (some are more cooperative than others), the amount of information the custodial parent can give the agency (the missing parent's birthdate, Social Security number, armed forces service dates and detailed physical description) and the leniency of the court in the missing parent's county. In 1977 Wisconsin sent URESA petitions to other states for 3,503 cases, including

"reasonable" visitation or "reasonable" notice? Are protective restrictions indicated?–for instance, that visits may only be made in the presence of a third person.)
   b. How about special times–vacations, holidays, birthdays?
   c. Should a specific person (a minister? a counselor?) or agency be designated as arbitrator in case of disagreement?
3. If joint custody:
   a. Which parent decides on the amount of time the child spends with each?
   b. With whom should the child "reside" for school and other purposes?
   c. Which parental rights can each parent exercise independently? (Consent for medical treatment? Permission to marry? Consent for driver's license? Choice of school? Religious training?)

Child Support

1. What amount for each child? Paid how frequently?
2. Should security (such as a bond, or creation of a trust) be posted to provide recourse if a parent fails to meet payment, insurance, or other obligations?
3. Who pays medical and dental bills, and under what circumstances? Which parent should be required to carry health insurance for the child? Who decides about and pays for elective medical treatment such as orthodontia? (Should be *specific.*)
4. Which parent, if either, is responsible for educational expenses including, where appropriate, private school tuition and/or post-secondary school expenses? Should either parent be required to contribute to a college fund while the child is still a minor?
5. Should either or both of the child's parents carry life insurance with the child as beneficiary?
6. Should support payments be reduced or eliminated during long visitation periods?
7. Do you both understand and agree to the tax consequences of your child support arrangement?
8. Which parent may claim the child as a dependent for tax purposes? (If it is the support paying parent, perhaps this right should be made contingent on actual, prompt and complete payment.)
9. Should the award include automatic adjustments for increases or decreases in the cost of living or in the payer's salary?

Attorney Fees

1. Who will pay your attorney's fees, and when?
2. Since the portion of the fees relative to taxes may be tax-deductible to the client, should the other spouse be exempted from paying that part?

Miscellaneous

1. Does either of you want to resume a former surname?
2. If a refund is due from a joint tax return, how is it to be divided?
3. How should you file your final tax returns as a married couple? Should you file separately (at a higher bracket) or should you file jointly and split the amount saved?
4. How will payments made under a temporary order or during an informal separation be handled for tax purposes?
5. Do you understand the different tax consequences of receiving maintenance, child support, or different forms of property?

Eye Openers

The unemployment rate among male heads of households (in 1976) was 5%.
The unemployment rate among women heads of households (in 1976) was 9.8%.

2,934 AFDC cases. The success rate of those petitions is available only at the county level. In Milwaukee County, for example, in 1977 the district attorney was successful in getting court orders and collection on child support payments in 291 cases, or about 45 percent of the 641 cases in which URESA petitions were used to collect from missing parents who had moved out of Wisconsin. About $1.4-million was collected through URESA petitions in that county. The success rate for locating and collecting from missing parents within the state is usually higher than that.

THE DOUBLE STANDARD

Some people find it curious that American judicial and governmental agencies have over the years found it so monumentally difficult to pin down absent fathers who flout a court order and make them pay what they owe. Yet those same institutions have at the same time managed to be so swift and effective in punishing mothers considered "welfare chiselers."

When it comes to how society treats those who directly cause the taxpayers expense by evasion or open flouting of a law or court order, there is a double standard.

The Judy Banks case shows clearly how unwilling the legal system has been to help a woman collect the support money she is owed–as well as how eager it is to punish her for her own financial misdeeds.

Part I: The Divorced Mother

Judy Banks had a hard time making ends meet. A divorcee, she had four children, ages 14 to pre-school, to support. She didn't have much help from either of her ex-husbands. Fred Banks, her second husband and father of her three youngest children, was ordered by their divorce decree to pay an outstanding electric bill of $1,567. When he didn't the electric company took Judy's refrigerator, freezer, washer and dryer. According to her lawyer, Judy lost everything while Fred just got on his motorcycle and took off.

Judy hired a lawyer and took Fred to court three times for failure to support his family in violation of a court order. Each time, he managed to get the amount of his payments reduced. Never was he fined or sentenced to jail for violating the court order. Judy never saw any money.

Judy went to work earning $200 a month as a part-time cook. She received $263 a month from welfare. Her financial problems were bad, but in late November, 1972, they got a lot worse. You see, Judy's first husband had been ordered to pay child support of $30 a month for her oldest child. He didn't pay regularly, but every once in a while he came through. Since the amount of money was so small, and since it came so irregularly, Judy hadn't bothered to report it as income to the welfare authorities. But when the welfare department found out about the money, it accused her of fraud and took her to court. The court which overlooked Fred Bank's refusal to pay support sentenced Judy to 30 days in jail and two years probation. She was required to pay back the money, a total of $2,185, during her probation period in monthly amounts of $91. She had to pay an additional $90 for the privilege of being a Huber Law prisoner, which allowed her to go to work during the day and spend a few hours on the weekend with her children. Keeping Judy in jail cost the County about $730 to provide care for her four children while she was locked up. Judy knew she had been wrong not to report the money, but she felt her misdeed was minor when compared to her ex-husband's flagrant

Judy Banks and children

Mothers With Double Duty

violation of the law. Yet she went to jail, and he went free. "It wouldn't be so bad," she said, "if I had something to show for the money. But... I have nothing, except four well-fed kids."

Judy Banks committed welfare fraud because it was the only way she saw to care for her children. The court system which penalized her severely for her wrong-doing permitted her ex-husband to continue to evade his family responsibilities–which is why she was driven to break the law in the first place.

Part II: The Remarried Mother

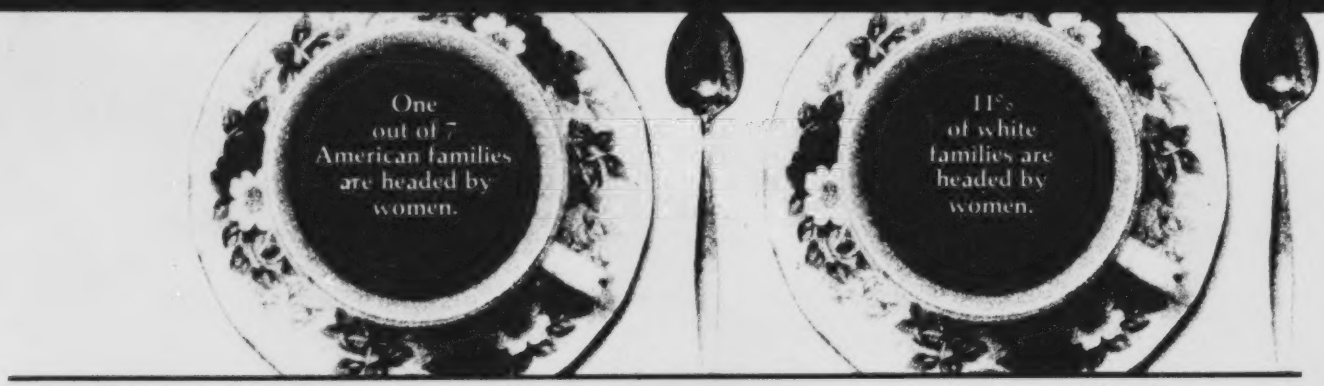
The woman who tells the next true story was refused state help in collecting court ordered support payments for her children from her first husband, a California attorney. Unable to continue working and at a home with her new baby by her second husband, she asked for Aid to Families with Dependent Children for her two children by her previous marriage and was denied. She was later told that she had to cash in her small retirement plan before her children would be eligible. She was told that they were ineligible also because she shared a checking account with her second husband, and she had access to the money in it to support them. The Health and Social Services Department decision, when it reviewed her case, said, "She is certainly as a business partner and spouse, entitled to remuneration for the performance of a housewife's work." This opinion (as she points out) is directly contrary to the long-established "separate property" principle of Wisconsin law that says that wives have no right to, or control over, their husband's earnings. Her story is unusual because of her persistence. She has been fighting her case through local and state agencies and the courts for several years, and, as she says, "it could go on many more years."

"I like being a wife and mother. It is one of the best jobs that I have ever held and I have worked at other jobs since I was 13 years old. I have been employed at office work, teaching, and selling. I have held better paying jobs than wife and mother, but have never enjoyed any other job as much. At the risk of sounding corny, the best part of my day is when I enter my sleeping children's rooms and see three good-looking, intelligent and healthy people.

"So when I was told by the Department of Health and Social Services (DHSS) that my services as a wife and mother were valueless and unimportant to the community, I was shocked. They didn't use those words, but the implication was clear–people who don't hold paying jobs don't contribute much to the welfare of the community. This opinion degrading the traditional role of a wife and mother comes from a state agency whose purpose is supposed to be the furtherance of a stable family unit.

"How did their shocking opinion enter my life? I used to consider myself a middle-class person. I live in a middle-class community and have paid my taxes for a good many years to a government that I had thought of as progressive and capable. My husband and I have all the trappings of middle class life: a three bedroom house, two cars, numerous appliances and furniture. Occasionally we take a vacation, go out to eat in a restaurant, play golf, go bowling and do all of the myriad things that other middle-class people do. How then did I have this run-in with the DHSS and the law?

"It started in 1974, when a man from whom I had been divorced in California eight years earlier refused to continue paying court-ordered child support for our two children. I had re-married in 1971 and was living in Wisconsin. At the time of my second marriage I was 31 years old and had learned much about the law through my divorce and six years of single living, and in college where I had studied business administration. So when I married the second time I wanted to handle the financial aspects of marriage on a more business-like basis because I knew that people who thought only of the emotional side of marriage were often disappointed and deeply hurt financially in a crisis such as divorce or the death, or illness of a spouse. I felt it was important to plan ahead–making wills, buying insurance, and consulting a lawyer when making major decisions such as buying a house. I made out the tax returns for the family and participated in making such major family decisions as buying a car. With the advice of our lawyer I arranged the ownership of the various family assets such as the house, cars, insurance, etc., to try to make any transitions which might occur in a crisis easier and to take into account any tax consequences.



However, there was one crisis which occurred for which I was completely unprepared. In 1974 the children's natural father refused to continue paying child support.

"I waited several months while one lawyer tried to talk him into paying. I grew dissatisfied with this approach and then contacted another lawyer in California, where he still lived, to obtain a judgment against him. We were unable to collect on the judgment however because while the other lawyer "negotiated" my former husband had transferred all of his assets to his present wife's name, and since he was a self-employed lawyer, there was no way to garnish his salary. Further lawsuits were out of the question for me as I had neither the money nor the time to travel to California to pursue the case.

"I lived with this situation for about a year and a half. I was working and earning a good living so I didn't miss the payments too much. Suddenly, I became ill and had to go to the hospital for an operation. I also found out that I was pregnant. That put an end to my ability to earn a living; at least I could no longer work at my present job, which called for me to work long hours on short notice, often in the evenings and on weekends. This kind of schedule could not work with a new baby. No babysitter would tolerate it. Besides, I am egotistical enough to believe that my baby would be better off if I could give her my full attention. So I wanted to stay home.

"Since I had run out of money to continue prosecuting my other two children's natural father, I went to the district attorney's office to swear out a criminal complaint, have a court approve it and have him extradited to Wisconsin to stand trial. The Federal Constitution says that each state must give full faith and credit to the judicial proceedings of the other states so I figured that I could show my evidence to a Wisconsin judge and he could ask for the children's natural father to be sent here for trial.

"The assistant district attorney didn't see it that way. He said that as a practical matter my misfortune wasn't serious enough for the courts to bother with. Extradition could take years, and there were more important criminals to go after."

"The assistant district attorney didn't see it that way. He said that as a practical matter my misfortune wasn't serious enough for the courts to bother with. Extradition could take years, and there were more important criminals to go after. I was shocked. What good were all the rights that I thought I and my children had under the law if we couldn't get our own government to enforce them? We are told not to use guns or fists or other methods of force to settle our disagreements because the law will protect our rights if they are abused. The court order establishing my children's right to support by their father was just a useless piece of paper.

"So I decided to apply for Aid to Families with Dependent Children (AFDC) at my county social service agency. I needed the child support money I was owed. I felt that if the government didn't want to help me enforce my rights then it should share the responsibility of supporting the children of a man whom it was helping to evade that responsibility. I was doing my job, which was to provide the actual care of the children. Was their full financial support also my responsibility if their father chose to disobey the law?

"Before applying for AFDC, I called my lawyer to see if he could tell me something about the county social service agency and its rules. He said that they would examine all my private financial affairs and that my chances of getting aid were very slim because the rules were intentionally written vaguely so they could deny aid to virtually anybody they pleased. Since I was a college graduate, married and had good working skills, they would have no sympathy for my wanting to stay home and simply be a mother and wife. He urged me to tell the truth in answering their questions so that would at least eliminate one ground for denying me aid–fraud.

"Everything he told me was true. The agency did deny me aid. It was extremely suspicious about my careful financial planning in my marriage, since most people do not pay such close attention to financial affairs, nor do they plan ahead as I do.

One in five hispanic families are headed by women.
More than 1 of every 3 Black American families are headed by women. Half of these have incomes below the poverty level.

"Even though my financial planning had started way back in 1971, five years before I had a need to apply for AFDC, the agency accused me of doing it in preparation for applying for AFDC. Furthermore, it implied that someone with my education should not be home caring for children. I should place my child in a day care institution and continue working. It was true that I could have earned much more money pursuing a career than I could have received from AFDC, but I considered motherhood a career, too, and was willing to make the financial sacrifice for the good of my family. I could not understand why they considered motherhood as less important than holding a paying job, especially with all the juvenile delinquency, alcoholism, and mental problems that I have heard accompany poor family relationships. Why couldn't I give my baby the same start in life that I had given my older children?

"By the time I received the denial letter, I had already started educating myself about the law by taking books out of the local law library and attending a class in methods of legal research. I needed to determine whether the reason they gave for my denial was a legal reason. I also called the legal aid service. Although they couldn't help me (because my husband's income was above the poverty level) they did let me use their copy of the Income Maintenance Manual, which contains the rules that the social service agencies used as a basis for granting or denying aid. It turned out that the county social service agency was supposed to inform me of my right to examine the Manual, which it never did; but now I was able to read it anyway.

"If we had been unmarried and living together, I would have been eligible for aid. My children and I were penalized because I obeyed the law."

"So I filed a petition with the state DHSS which oversees all county agencies, for a hearing to review the county agency's denial. At the hearing, I asked the hearing examiner what the rules were for proceeding in the hearing. He simply said, "Just go ahead and state your case." Later on when I appealed the hearing examiner's decision before the circuit court, the judge criticized him for not informing me about how to proceed. It was apparent from the hearing examiner's conduct that I would lose, so I went about preparing myself to go to court. I was really worried this time. People had told me that you can't fight city hall, especially if you're not a lawyer. But I really felt I was right and the issues had grown larger now. The agencies, both county and state, had not only unfairly and illegally denied me aid, they had broken other laws as well. The law states definite time limits within which the agencies should notify people of a denial and the results of a hearing. They had exceeded these time limits. In addition they had broken other laws which said that they should clearly inform me of the reasons for my denial and of my right to inspect the Income Maintenance Manual. The hearing examiner had conducted the hearing unfairly. He had allowed the assistant district attorney and agency representatives to interrupt me and had not stated a time limit or other procedural guidelines so I had run out of time without having the opportunity to present all my points. And he did not properly explain his reasons for his decision.

"So I filed an appeal with the circuit court and prepared myself to go to court. I attended a class on courtroom procedure and read law books.

"When he had heard my case, the judge decided that the agency had indeed broken the law and that the hearing examiner was also at fault for improperly conducting the hearing. He directed the county agency to review my finances again and this time to determine whether I was eligible on the basis of law, not prejudice.

"The county agency did review my finances again and once more denied my request for AFDC, but for different reasons. In my first denial the county agency had concluded that my business-like relationship with my husband was unnatural and abnormal, and indicated that I was simply trying to give away my assets to my husband to rip off the state in order to live a life of luxury at home. If we had been unmarried and living together, I would have been eligible for aid. My children and I were penalized because I obeyed the law!

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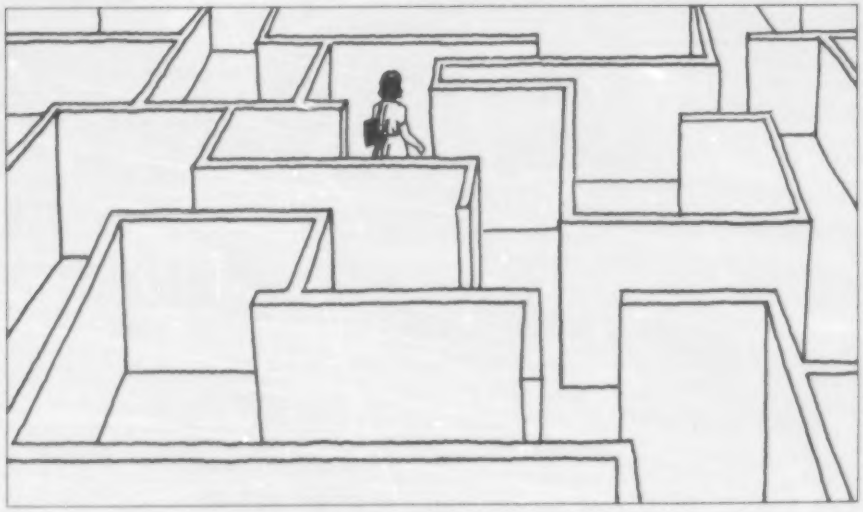
JOHNNIE TILLMON
"Welfare Is A Women's Issue,"
Ms. Magazine, Spring, 1972



"In denying aid the second time the agency said that because I am married the department considers me to be my husband's employe. A second husband, as a step-parent, is not legally liable for the support of children by a first marriage, so the hearing examiner claimed that my husband paid me by maintaining a joint checking account in both our names, thus giving me an opportunity to take money out from the wages owed me to pay for the children's expenses. But the law says that a housewife cannot be paid for her services, and that a joint checking account in both spouses' names merely indicates that a wife is the business agent of the marriage and not an owner of the money. The money in the account belongs to the person who put it there. Since that person was primarily my husband (I had been attempting to do some work during the year and did earn a very small part of it) he was the owner of the money. And since the law says that he need only pay for my "necessaries" (minimal food, shelter, clothing, and medical expenses) but may not pay me a salary, it seems strange that the county and state agencies would say that I am earning a salary from which I am able to pay the children's expenses.

"Instead of giving my children the usual wedding gift when they get married, I will give them the cost of a consultation with a lawyer so that they can find out what the marriage laws say before it is too late."

"The department also claimed that a small retirement account that I maintained should be closed and the money used up before my children could qualify for aid despite a statute that permits a person to set aside a "reasonable allowance for... their care and protection in old age" even though this might mean that a dependent of that person would have to receive public assistance. My retirement plan was started in 1972, four years before I had any idea that I might be asking for public assistance.

"So I am going through the appeal procedure again. I have lost my appeal to the DHSS and now I am waiting to have the circuit court hear my second appeal. I feel sure that I will win again, but I am sad about what has happened.

"I am sad that two agencies, the county Department of Social Services and the DHSS are spending thousands of tax dollars fighting my case, some of those dollars supplied by me. I am sad because I see them breaking the law, maybe deliberately or maybe because they do not know the law. I am shocked that instead of being dedicated to improving family life, these agencies are contributing to its destruction by punishing people who get married, and hindering parents who are trying to do the best for their children, while helping parents who do not care for their children to escape from their support obligations. I am shocked because they seem to prefer what is expedient to what is morally and ethically right.

"Still, I have benefited from this experience. I am now aware of how lightly the law treats women's unpaid contributions to the family, so I must be even more efficient in my financial planning. I must be careful that any

"Oh, it's all in the past, you can say, but it's still going on here today."

BUFFY SAINT-MARIE

assets which are purchased in my name or in joint tenancy with my husband have fully documented proof of my financial contribution. It is important that I keep some assets in my own name only, so that in the event of a family crisis I would have some funds available. If my husband and I make any important changes in our relationship, we should put it in writing; for instance if we lend each other money or employ one another in a business we should have written evidence or we could suffer severe penalties under the law.

"If my children ask my help in financing their college education, I will insist that as one of the conditions of this help they attend at least three law or tax courses even though they may not want to be a lawyer or an accountant. They will definitely be able to use this knowledge in their lives whenever they make a purchase, pay their taxes, buy insurance or make any other major decision. Instead of giving my children the usual wedding gift when they get married, I will give them the cost of a consultation with a lawyer so that they can find out what the marriage laws say before it is too late, and write out a contract outlining their intentions regarding the marriage relationship.

"I have also learned much information that has benefited me in my work. Yes, I had to go back to work to support the family when my husband was laid off from his job. Also, I have had the pleasure of meeting many fine people who have encouraged and helped me in trying to hold these agencies accountable to the law. They have given me useful advice and information and encouraged me to continue, because what I am doing will benefit all families in Wisconsin if I am successful."

State Historical Society of Wisconsin

THE IMPACT ON WELFARE

Only 21 out of every 100 divorced mothers are collecting child support payments regularly from the father.

82% of all families receiving Aid to Families with Dependent Children (AFDC) had one parent absent, not paying child support.

A 1977 Wisconsin study of deprivation factors amongst those receiving AFDC showed that over half the caseload was children with mothers who had been divorced or deserted.

Each month in 1977 an average of 61,561 families in Wisconsin received AFDC.

The total AFDC bill in Wisconsin in 1977 was over $234 million.

Part III: The Single Mother

Diana* and John lived together for five years. They felt it was not their way to formalize their relationship and register it as a legal marriage. Two children were born to them. Then John left the reservation in search of a job in the city but after sending $30 on two occasions was of

*Diana is not a real woman. In the early 1970's, however, several Wisconsin American Indians were jailed in circumstances essentially similar to those described in this story. They were the victims of discriminatory law enforcement. As poor women, they were harrassed by the selective application of a law which is widely flouted and no longer invoked against middle class individuals.

"Welfare's like a traffic accident.
It can happen to anybody,
but especially it happens to women."

JOHNNIE TILLMON

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no further help to Diana. Diana would have got a job if she could–but there were none within 50 miles and neither was there any reliable child care available. Desperate, she applied for welfare. Instead of money for food for her children, Diana was put in jail for three months. Since she was a mother but had not been married according to Wisconsin law, she was charged with having engaged in fornication and lewd and lascivious behavior.

The District Attorney used an old law that many other states have wiped off the books in recent years to make Diana an example to other unmarried mothers in the county. He thought this was an effective way to intimidate them and scare them away from applying for welfare help when they needed it.

HE LEFT HIS DEBTS TO HER

Even with the new divorce law, a woman may still face serious problems when her former husband refuses to live up to his court-ordered obligations, as the following case histories point out:

The True Story of Mrs. Rooney

While the Rooneys were happily married, Mr. Rooney needed to borrow a substantial sum of money for a business venture. The bank required his wife to co-sign for the loan. Some time later, the Rooneys divorced. The divorce decree ordered Mr. Rooney, who had used the money, to repay the debt.

However, Mr. Rooney had fallen into hard times, and he never managed to make his payments. The bank, tired of waiting for its money, finally took action: it closed out *Mrs.* Rooney's savings account, confiscating the money in it, and sued her for the amount still due. "Wait a minute!" complained the shocked woman. "That money is mine! Our divorce decree says clearly that payment of this debt is my husband's responsibility. He still lives right here in town; sue *him* for the full balance, and give me my savings back!"

"That divorce decree is between you and Mr. Rooney," replied the bank's collection agent. "You can make whatever arrangements you want with him, but we don't have to abide by your agreement. Your name is on this note, and you are just as responsible for repaying it as he is. Mr. Rooney doesn't have a steady job, and he no longer banks with us. It's easier for us to collect the money from you."

Mrs. Rooney ended up having to pay off the loan. If she wanted to get the money from her former husband, she would have to hire a lawyer and take him to court–again.

NATIONAL PLAN OF ACTION

Women, Welfare and Poverty

The Federal and State governments should assume a role in focusing on welfare and poverty as major women's issues. All welfare reform proposals should be examined specifically for their impact on women. Inequality of opportunity for women must be recognized as a primary factor contributing to the growth of welfare rolls.

Along with major improvements in the welfare system, elimination of poverty for women must include improvements in social security and retirement systems, universal minimum wage, non-traditional job opportunities, quality child care, comprehensive health insurance, and comprehensive legal services. A concerted effort must be made to educate the public about the realities of welfare, the plight of the blind, the aged, the disabled, single-parent families and other low income women.

adopted at National Women's Conference, November, 1977, Houston, Texas

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from "The Value of Housework: For Love or Money?" by Ann Crittenden Scott. *Ms.*, vol. 1, no. 1 (July 1972).

The True Story of Cindy Davis

Cindy and Scott Davis married when he was a law student. She worked as a nurse in a Madison hospital to support them. When they bought their new car, she financed it through a credit union of which she was a member. Both names were on the note. Not long after the car purchase, Scott graduated from law school. Unable to find employment in the Madison area, he went alone to Minneapolis to look for work, taking the car with him. His stay there lengthened, though he did not find a job; as time passed, he made friends and found more reasons to stay where he was and fewer reasons to go home to his wife. Cindy stopped sending him money. Correspondence between them became more and more infrequent.

Finally, Cindy sued for divorce. Scott did not contest it, and agreed to a provision in the stipulation that he would keep the car and would take over the payments. Within a few months, however, the credit union began to contact Cindy for payment. "Scott is obligated to pay off the car loan," she explained. "It's no longer my responsibility." She called Scott, however, to relay the message. "I wrecked the car three months ago," he told her. "It was a total loss, and I had let the insurance lapse. So I have no car and no cash, and I'm not going to make all those payments for nothing. Let them sue me!"

Cindy contacted the credit union agent. "I'm afraid you'll have to sue him," she concluded. "Oh, no," said the agent. "He's out of state, and unemployed besides. Your name is on that note, too—and you're still here in town and holding down a steady job. Either you pay us in full, or we'll garnish your wages."

Cindy, like Mrs. Rooney, had to pay off the debt that her ex-husband had acknowledged was his responsibility.

The moral of these stories is that you need assurance beyond the stipulation and divorce decree that an agreed-upon and ordered debt allocation will be honored. Legal experts advise that you insist that all major debts be refinanced in the name of the person who assumes the debt alone. No matter what agreement you have made, you are still responsible for any debt where your name appears on the note.

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WIDOWHOOD: SOME REAL LIFE SITUATIONS

"With all my worldly goods I thee endow" is a protection myth. Too many women, after enjoying the protection of a marriage for a number of years and after a lifetime of productive work on behalf of the family and society, are finding themselves alone and practically or actually destitute."

JUNE MENZIES
May 9, 1974, River Falls, Wis. Conference on Homemaking and the Family, Sponsored by the Commission on the Status of Women.

WIDOWHOOD

Lee Larsen

It is hard to hold steadily in our minds even for a minute that we must die. It is even harder to acknowledge this inevitability with people we are close to and to share our feelings about it. When we speak of teaching our sons and daughters the facts of life, we do not usually include among them the fact that each living thing must die.

We need to familiarize ourselves and to help our children face the facts of death. And we need to familiarize ourselves and our daughters with the likelihood of being widows. Women over age 65 outnumber men by a ratio of 144 to 100. After age 75, the ratio is 171 women to 100 men, and a Wisconsin woman's life expectancy is 77 years. In 1976, almost eight out of every 10 women over 65 were widows. On the average, a widow can expect to live 11 years after her bereavement.

Widowhood hits hardest at the full-time homemaker. The woman who has made a career out of her marriage and who, through her marriage, has gained much of her identity, loses not only her mate and companion but her job and her source of livelihood. Through her husband's death she suffers not only a deep personal loss but also a severe drop in income and, frequently, an end to protections she had taken for granted, such as health insurance coverage.

Most of the stories about widowhood in this book are concerned with money matters: pensions, insurance, estate planning. Frequently, nothing can be done *after* a woman is widowed to ease her financial burden. But much can be done by couples to anticipate the future and ease some of the problems of widowhood and advancing age. Lynn Caine, herself a widow, writes:

"Death and widowhood are among the most shattering realities. Yet, we must face them, and it would be easier to do so if we were prepared beforehand... Today I know how I would go about it. I would declare a Contingency Day–an annual review of the financial state of the family. And I would like to recommend such a review to every husband and wife. They could discuss steps to be taken if either husband or wife should die in the next twelve months. How much money the surviving spouse and children would have to live on. What changes in life-style would be necessary..."

We hope that what follows will help wives and husbands in this kind of planning, and that it will also bring into focus areas of the law that should be revised if widows are to receive more equitable treatment.

Here is the story of the widowhood of a woman who showed courage and a rare ability to cope successfully with adversity. Some of her strength came from her personal philosophy:

"My upbringing and experience led me to develop the philosophy that self preservation is the first law of nature. On that premise my will was that each family member learn to survive, hold what was acquired and find ways and means to acquire more. It seemed only natural to love oneself first; then it would not be difficult to love others."

My husband died two years ago leaving me with three teenage boys and a good sized mortgage on our house. We had been married eighteen years ... and I was not employed outside of the house during that time. ▶

"It Was Most Sudden"

Lee met John H. Larsen when she was working as a Community Organizer in Mississippi during the middle sixties. She was at that time raising four children on her own. John was working with a Wisconsin State Senator and was active in Measure for Measure, an organization providing financial, material, and human resources to freedom schools, voter registration drives, and the field workers in the Mississippi Delta. As Lee tells it:

"John and I spent some time working together before we realized we had developed an interest in each other. As this interest grew we discussed the possibilities of marriage, the pros and cons of an interracial marriage for the children and for our families."

In 1968 Lee moved to Madison with the children, enrolled at the university, and took a work study job. Finally, after several years of careful consideration and increasing affection, Lee and John were married.

Both remembered with nostalgia their own childhoods in rural areas where farming was the way of life. They wanted the children to have the opportunity to share similar experiences, so in 1973 the family moved into an old farmhouse on five acres of land in Blue Mounds.

At first the children had reservations about the move from the city to the country. Chrysilla at 13 and Dexxie at 12 were both at the age at which young people tend to regard parental enthusiasms with skepticism.

Planting a garden

Brian

Chrysilla

Lissa, age 8 and Brian, age 6 were more eager and curious about the wildlife.

Those years were happy. With love and discipline from both parents, the children learned to pitch in. Chrysilla would drive the tractor and the whole family shared the chores of growing and preserving vegetables for the winter. They picked wild berries and plums and watched the birds, the rabbits and squirrels. Brian made a pet of a raccoon. All the children enjoyed helping with the milking on the neighbor's dairy farm and became active in 4-H. Dexxie was athletic and went out for track. Lissa developed her gift for music and played several instruments. The whole family was busy, involved, in the middle of life.

Then John had a heart attack. It was most sudden. Earlier that day Lee and John had driven to Madison together to buy the next semester's school supplies for the children. Lee described what happened:

"After school, John was to pick up Dexxie; we would have supper, then

Right after my husband died I tried in vain to get a job. Most places told me they were only interested in people with recent experience. They didn't know if I could "handle" a job.

Dexxie

Lissa

the school supplies would be distributed. Only this time John was not to see the smiles, hear the reports of the children; neither would he pick up Dexxie from school. He had decided to chop wood for the fireplace before driving into Mount Horeb. Chrysilla, Brian and Lissa were anxious for Daddy to hurry so he could get Dexxie home. I was rushing with the preparation of our evening meal so we could get to our inventories and reports. While John was chopping wood, Lissa was out in the yard carrying on a conversation with him. She always kept close to John and enjoyed teasing with him.

"Lissa and Brian were the ones to see John fall. They ran into the house to get me. John could not speak. Someone called the rescue squad and within a few minutes he was on his way in an ambulance to a hospital in Madison. Brian gathered underwear, and socks, since Lissa had noted he was not wearing any and thought he would need some the next day. Brian also thought he would like some clean pants because he would most certainly be taking a bath or shower later that night. Chrys thought he would like to have a few dollars on hand for the newspaper and maybe some cigarettes. I packed John's overnight bag and followed him to the hospital.

"John's last words to Lissa and Brian had been 'I am all right.' His last words to me were 'tell "Prez" I'll call him back.'

"I arrived at the hospital with a neighbor and was met by a close friend who told me the doctors were still with John.

"Soon it was over. John had left this world. The doctors and nurses showed me together with my friend and neighbor into a private room and told us that John had passed on. They were all trying to comfort me and share my sorrow. The doctor tried extra hard. It was difficult for him because John was the first patient he had not been able to save. I in turn gave what comfort I could to the doctor. I guess he had forgotten about God being the Boss, and it was He who had the power to call his child home, when He saw the need.

"Of course not one of us was ready for God to call our John. But in a way he is still with us, alive in many, many memories which remain and serve as a bank of knowledge and experience that can be used in our everyday lives. Most of all there are the memories of love, family loyalty, and mutual respect. Even now it is a joy to remember how much happiness can be shared in such a racist and sexist world.

"The funeral, as usual, brought family and friends together. There was a kindness which was real. Having family like the Larsens helps much during a time like this. His friends, also, recalled experiences they had had with John that brought smiles and laughter, which helped us remember the good and happy times we all had shared with him.

"When all was done, there was the need to seek employment again, pay some bills, do all the other necessary jobs for our family. I do miss him, but I know John knew I would be able to manage, and do those things necessary for our family. He knew I would get the kids to their music lessons, girl scout, boy scout, 4-H, church and school activities. He was proud of all of us and we are proud of him. I think another reason I am able to accept it is because most Black women back home were taught that the Lord giveth and he taketh away; God lets us use his sons as husbands for our daughters. If there is love, even if the one you love does not live forever, always thank God for those loving hours that you had together."

After two months of chasing down ads in the newspapers I finally got a job as a dishwasher in a restaurant. But the pay was minimal, there was no paid holidays nor any medical benefits. So, I only kept the job for two weeks.

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I then was advised to try a job for a service company, and was hired by Kelley Girls. This was very interesting work and the pay was much better. But again there was no paid holidays and no medical benefits

Insurance

NATIONAL PLAN OF ACTION

State legislatures and State insurance commissioners should adopt the Model Regulation to Eliminate Unfair Sex Discrimination of the National Association of Insurance Commissioners. The Regulation should be amended and adopted to include prohibition of the following practices:

- *Denial of health insurance coverage to newborns from birth. 1*
- *Denial of coverage to women with children born out of wedlock and denying eligibility of benefits to such children. 2*
- *Requiring dependents who convert from spouses' contracts to their own to pay increased premiums for the same coverage or be forced to insure for lower coverage. 3*
- *Denial of coverage for pregnancy and pregnancy-related expenses for all comprehensive medical/hospital care.*
- *Denial of group disability coverage for normal pregnancy and complications of pregnancy. 4*
- *Using sex-based actuarial mortality tables in rate and benefit computation. 5*

adopted at National Women's Conference, November, 1977, Houston, Texas

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1 Wisconsin law prohibits this.
2 Nothing in Wisconsin law covers this.
3 Divorced spouses are protected in auto and property insurance only under Wisconsin law.
4 State law is silent on pregnancy itself, although complications of pregnancy must be treated like any other illness.
5 State law requires that when rates are differentiated by sex, the company must justify that difference in writing to the satisfaction of the commissioner upon request.

Q. *My husband died recently, and I am left with three young children to raise. I believe that he has left us enough income to get along until the youngest child is in school all day and I can go to work. However, his insurance company has notified me that we are no longer eligible for health insurance under his group policy. The insurance agent said we could apply for a new individual policy, but we would have to take medical exams because the company would not cover pre-existing conditions. My little boy has asthma and though my general health is pretty good, I have developed quite a high blood pressure problem over the past five years. I have no idea how I will meet the expenses of my son's condition if they are no longer covered by insurance and I'm afraid the company may refuse to cover me altogether. Is there anything I can do?*

A. No, under present Wisconsin law, there is really no easy solution for your problem. Ordinarily, homemakers are covered by their husbands' policies only while their husbands are living and working. Legislation has been introduced to help people like you. It would guarantee the widow a right to convert the wage earner's group health insurance to an individual policy covering her and her dependent children, without taking a medical examination or having to reestablish eligibility. Such protection exists for divorced wives under the current Wisconsin law. However, in most cases the converted policy is more expensive or may be less comprehensive than the original group health plan.

Knowing full well I could not afford to be without medical insurance, I paid the very high rates that Blue Cross charges for non-group insurance.

Then, then another newspaper ad, I got a job full time with medical benefits and wages of $2.85 an hour.

Q. *I have been a full time wife and mother for the past 22 years so I have no recent employment history. What can I do to increase my chances of getting a paid job now that I need one so urgently.*

A. Assess the skills you have developed through homemaking or volunteer community work. List the responsibilities you have successfully shouldered. Get a *functional* résumé typed and a number of copies made. Armed with your résumé, job hunt. Remember that an intelligent employer wants to know what you have demonstrated an ability to successfully accomplish, not what you were paid while you were doing it; the employer needs to know whether your health will allow you to be reliable and regular, not your exact chronological age. Remember, too, that while your added years might be a disadvantage if you were competing in a cross-country race, both you and your potential employer should appreciate the extra advantages a mature and experienced person can bring to many jobs.

A common mistake made by women returning to the work force is that they fail to be specific about their skills and past experience. Women who have remained at home for a long time often have diminished in their own self esteem, and thus have trouble projecting their very real skills and achievements to prospective employers. Bland phrases like "Red Cross volunteer" tell the stranger on the other side of the desk nothing about what you have done or could do as an employe. Look at these two sample résumés. Which person would *you* hire if you were looking for a good worker?

WHO WOULD YOU HIRE?

Traditional Résumé

Daphne Goodwife
302 Lavender Ave.
Ourtown, Wisconsin

Widowed housewife, aged 50,
mother of three children
(now grown, one still at home)

Employment experience:

1946-48: dime store clerk
1945-48: Clerk Typist
1948-78: not employed

Education:

three years of college
(1946-51)

Hobbies:

Red Cross volunteer
YWCA activities
P.T.A.

This may sound better, but my mortgage payments and child bills are very high. Also, I find car insurance to be very high as my son has to be principle driver on my husband's car. And living here in Magnon, we have to have two cars especially with me working full time. So, I am still in a financial pinch and very worried about our future. ■

Functional Résumé

Daphne Goodwife
302 Lavender Ave.
Ourtown, Wisconsin

Family head (one child still at home). In good health.

Responsibilities successfully completed:

1977 Citizen member of a special school committee to study the costs and benefits from closing several Ourtown schools.

1976 Organized a series of 6 public lectures at the YWCA. Invited the speakers and did the public relations work involved (two press releases attached). The lectures served a total of approximately 650 people.

1975 Co-coordinated the special June Young Women's Day hosted at the YWCA and attended by 900 persons. Shared responsibility for the planning through the execution of the event (over a 6-month period) including liaison with all seven Ourtown girl scout troops and assignment of 27 spaces for booths. This event raised $1,747 for YWCA scholarships.

1971-1975 Member of the 7-person board governing the YWCA of Ourtown.

1971 Treasurer for the successful campaign to elect Mrs. Goodbar to Ourtown School Board.

1970 Acted as one of three group leaders to 24 girl scouts on a 10-day wilderness canoe expedition. Qualities and skills demanded: resourcefulness, organizing ability, patience, and stamina.

1969 & 1970 Having had 3 earlier years experience in helping with Ourtown Red Cross Spring Blood Drive, for two years chaired the committee that launched and carried through the effort. More blood was donated in those years than ever before.

1968 President Glenn School Parent Teacher Association.

1963-1968 Active in the Parent Teacher Association.

1960-1969 Den Mother, Cub Scouts and coordinated a total of 29 volunteers who helped staff the annual one-week wilderness camp for Ourtown Cub Scouts for 3 consecutive years.

1956-1960 Raised three children born 1956, 1957 and 1960.

1951-1956 Managed the office and provided all clerical support services for a group of four biochemists in Neighbortown combined university and hospital research unit. Had complete responsibility for scheduling appointments, periodic mailings to research associates and subjects. Ordered supplies as needed and kept books.

1948-1951 Three years of liberal arts studies at Ourstate University (gradepoint average: 3.00).

1946-1948 Clerked in a dime store to save money for college education.

In 1976 the average monthly Social Security payment for women was $180.33, compared to $250.49 for men.

That includes payments to retired workers and their spouses, disabled workers under age 65 and their spouses, and widows and widowers, including those who are disabled or have dependent children under age 18.

The largest category was retired workers. Women in this category received $197.08, compared to $247.70 for men.

THE SOCIAL SECURITY BLANKET

Q. *My mother is in her middle seventies, and has a lot of women friends who are also in their seventies. All are struggling to survive on very small incomes. All were homemakers who lived happily married lives, whose husbands were good to them. Why are they all obviously so poor?*

A. Many elderly women have only their social security to live on. The plain fact is that wives tend to live longer than their husbands, on the average 11 years longer. The 7.5 million widows and single women over 65 make up the poorest segment of our society. In 1970, half of these women had incomes of $1,888 a year or less. In 1976, a leading financial planning analyst estimated that two of every three poor persons in the United States were females over 65. He estimated that most elderly women who live alone had incomes of less than $2,000 a year.

One reason for this poverty is that the Social Security system does not provide adequate protection for women who work as housewives. Although wives and mothers perform billions of dollars worth of unpaid service in our economy in the form of child care, cleaning, cooking, nursing, decorating, shopping and so on, homemakers get no social security credit for their work. They are covered only as dependents of their husbands.

A wife of a retired worker gets 50% of her husband's social security benefit, if she starts drawing at age 65.

The Federal and State governments, public and private women's organizations and social welfare groups should support efforts to provide social and health services that will enable the older woman to live with dignity and security. These services should include but not be limited to:

- *Elimination of present inequities in social security benefits.*
- *Recognition of the economic value of homemaking in social security benefits.*

Example: Mr. Retiree draws a monthly benefit of $300 per month. If Mrs. Retiree begins drawing at age 65, she will get a benefit of $150 per month. *But*, if she opts to start collecting at age 62, her monthly benefit is reduced to $112.50.

Q. *Are my widow's benefits also reduced if I claim them early? I am 60 years old, and my husband died recently. I am really strapped for cash, and I don't think I can wait until age 65 before I start drawing social security benefits. What will happen to my payment if I take my widow's benefit now instead of waiting?*

A. If you take your benefit early, the monthly payment will be reduced according to actuarial estimates of your life expectancy. If your husband was entitled to a monthly benefit of $300 per month, your benefit would be:

At age 65	*At age 62*	*At age 60*
$300	$248.70	$214.50

Once you elect to start your benefit early, you continue to collect at the reduced level, whether you live a month or 20 years after your payments begin. You do *not* go up to the higher benefit upon reaching 65.

Q. *My husband and I were divorced two years ago. We were married for 17 years. Last month, he suffered a heart attack and died. I was receiving alimony from him, but now the payments are ending. Am I entitled to social security benefits?*

A. Yes, starting January, 1979 you may collect widow's benefits if you are at least 60 years old. Effective at that time, a divorced wife may receive benefits based on her former husband's earnings, as long as the marriage had lasted at least 10 years. Under the old law, a divorced wife could not collect un'ess the marriage had lasted at least 20 years. That left a large number of women totally uncovered who, like you, had been in long-term marriages that ended in divorce.

Q. *I am a widow receiving $300 a month from Social Security. I have recently had an offer of marriage from a very good friend (also on Social Security) and I am very tempted to end my loneliness by accepting. I hesitate, however, for fear that I will jeopardize my widow's benefit under Social Security. Please help me.*

A. You can relax and remarry. Congress recently eliminated the "living in sin" rule. Until the recent change in the law, a widow who was receiving a pension on her late husband's work record had her benefit reduced if she remarried. Effective January, 1979, she retains her full benefit although she remarries. In addition, widows whose benefits had been reduced because of remarriage will be brought back up to their full benefit as of January, 1979.

Van Schaick Collection, State Historical Society of Wisconsin

If your husband gets a pension, it belongs to him, not to you.

If he dies, at best you will get a widow's benefit. In many cases, you will get nothing at all.

PENSIONS

Working and Losing Under the System

In addition to the Social Security system, many workers are covered by private pension plans. In 1974, Congress passed the Employe Retirement Income Security Act (ERISA). It focuses primarily on the typical private pension plan in which the employer promises to pay the employe a specific dollar amount each month at retirement. It was an attempt to make sure that workers and their families got the benefits they were promised. However, even with the new law, there are still many pitfalls that prevent retired workers and their spouses from collecting the benefits they expect to get. Here are several true stories. In some cases, the names have been changed to protect the families' privacy.

Gloria DeSantes had been a wife and mother for 30 years. Her husband died suddenly when she was 50 years old. She found that she was too young to collect social security, and too old to get a job. Mr. DeSantes had always told his wife that if anything ever happened to him, she would be taken care of by his pension plan. After all, he had worked more than 33 years for the company. But when the time came, Mrs. DeSantes was told that her 52 year old husband had died too early. His plan provided benefits only to widows of employes who died after age 55. In short, all the years that her husband had worked toward his pension had gone down the drain.

Mary Ballantine had a similar experience. Her husband died suddenly after 40 years of service to a nationally known company. She got no widow's benefit because her husband died three months short of the company's early retirement age of 60. She appealed to the appropriate people in her husband's company, all the way to the Board of Directors, pleading that the company owed a moral obligation to the widow of a man who had given them 40 years of service. But her pleas were in vain. Says Mrs. Ballantine: "I am fortunate, if you could call it that, that I could sell the home my family lived in for over 25 years in order to meet expenses."

June Wyckoff's husband was 55 and had worked 34 years for the same company when he decided to change jobs. He could have collected an early retirement pension, but since the pension he would get at age 65 was twice as large, he decided to wait. But when he died at age 64, Mrs. Wyckoff got nothing. What the Wyckoffs didn't realize was that the pension plan provided no benefits for the surviving spouse if the employe was not working under the plan or receiving a pension at the time of death.

Mary Shaw went to work in a department store at age 46 after her family was grown. Now that she is ready to retire at 65, she has found that because her old plan didn't cover anyone who began work after age 45, she will get a pension figured not on 19 years, but only on the two years she has worked since the new law went into effect.

The Widow's Mite

Under the old law, private pension plans did not have to offer benefits for widows. Those plans which did offer a survivor's option usually required the husband to sign a consent form and agree to take a reduction in his pension, in order to provide for his wife. In many cases, the husband never got around to signing the paper. Now, federal law requires all pension plans to include some provision for widows. But whether a widow will ever receive payment depends on a complex set of factors.

If your husband dies *after* he retires, the general rule is that you will automatically receive a pension if he did nothing to waive your right to a survivor's benefit. In other words, you will be covered unless he said otherwise.

Example: Your husband is entitled to receive a pension of $100 a month at age 65 and you are three years younger than he is. If he does nothing, his pension is automatically reduced to $80 a month for his lifetime in return for survivor coverage for you. If he dies first, you get half that amount, or $40 a month as his widow. If you die first, he still gets $80 a month. If you are much younger than your husband, his benefit will be reduced even more and your benefit will be half of that smaller amount, because you are expected to receive the widow's benefit over a longer period of time.

Exceptions to the general rule: You will not get a widow's benefit if you

If you get a pension, it may be less than you expect.

If you divorce, you lose all rights to claim any benefit from the company handling your ex-husband's pension plan.

If you have a pension plan where you work, you may or may not get a pension when you retire.

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and your husband are not married for a full year before he starts getting his pension and also for a full year before he dies.

You also get no widow's benefit if your husband retires early, say at 53 for health reasons and starts to receive his pension before the special "early survivor option" age, which is usually age 55.

Q. *My husband worked for the same company for 30 years. He was still working for the company when he died last month at age 56. I thought I was entitled to a widow's benefit. But the company tells me that I get nothing because my husband didn't sign a special consent form agreeing to take a reduced pension in order to provide for me. How can this be? I thought the new law covers widows automatically unless the husband waives her rights.*

A. Unfortunately for you, the company is correct. Under the new law, special rules apply when the husband dies *while he is still working*. Widows in your situation get nothing unless they meet three conditions:

1. The plan has a provision allowing your husband to take early retirement.
2. Your husband has reached the special early survivor option age before he dies. Under most plans, the early survivor option age is 55, so the widow gets no benefit unless the husband was at least 55 before he died.
3. Your husband has signed a form agreeing to take a reduction in his early retirement pension in order to provide for you should he die before he retires. If he fails to sign the form, as in your case, you get no widow's benefit.

If your husband opted to give you this additional protection, his benefits would be reduced:

Example: Your husband is entitled to receive a pension of $100 a month at age 65. If he does nothing, his pension is automatically reduced to $80 a month in return for survivor coverage for you after his retirement. Your husband wants to give you additional protection, so he chooses an option which allows you to collect a widow's benefit should he die before retirement. In that case, his pension would be further reduced (possibly to as low as $50 a month) and you would get half of that smaller amount.

Q. *Last year my husband signed all the necessary forms to make sure I would get a widow's benefit if he should die before retirement. Six months later he discovered that he had acute leukemia and was gone within three months. I am totally crushed. Not only have I lost my husband, but now I have learned that the pension I was counting on won't be coming to me after all because he died of cancer. Is this legal?*

A. Unfortunately, you fall into a gap within the law. Plans do not have to pay out widow's benefits if the husband dies of cancer, a heart attack or any other "natural" cause within two years of signing the agreement to provide for his wife. This is another case where the improvements in the law did not go far enough to protect the spouses of deceased wage earners.

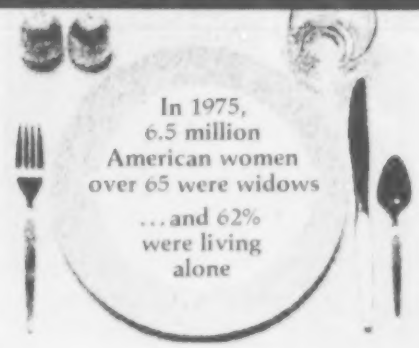
The Worker's Right

Q. *When do I have a right to an employe pension?*

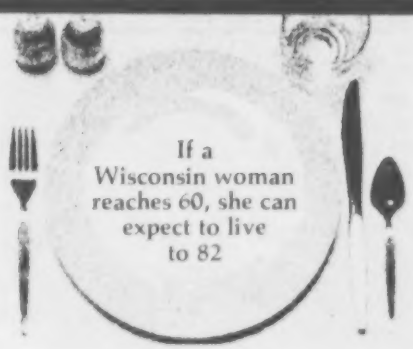
A. 1. You must work for a company or belong to a union which has a pension plan.
2. If your employer or union has a pension plan, you must be a covered worker. Pension plans do not necessarily cover every category of worker.
3. You must stay on the job long enough to quality for a pension. Under the new federal law (ERISA), most plans require 10 years of work to get a pension.
4. If you have worked enough years, you must be sure that all your years count. (See following question).

If you fulfill all these requirements and follow all the rules of the plan, you have a right to a pension. As these questions and answers illustrate, there are many ways that a worker can lose out, despite the protections of the new law.

Q. *I have worked for 15 years for a company which offers a private pension plan. The pension plan only requires 10 years of service in order to qualify for a pension. But now the company tells me that some of the years I worked don't count because my period of service was interrupted by the years I stayed home to take care of my children when they were pre-schoolers. They say they don't have to count any of the years I worked before I took my break in service. I'm furious. Isn't this blatant job discrimination?*



Food for thought



A. It's unfair, but it also may be legal. The new federal pension law provides some protection for people like you, but the new rules apply only to breaks in service taken from 1976 on. If you took your break before 1976, you are governed by whatever rules your pension plan had on the day your break started. Under many plans, even a short time away from work was counted as a break and you lost pension credit for all the years you worked up until that time. Under the new law, people like you can count the years worked before the break if the period they are away from work is shorter than their period of employment before they stopped work, *and* they took their break in service after the new law took effect.

You should also be aware that the company is free to disregard years that you worked part-time if you worked fewer than 1,000 hours in a year. If you worked less than 500 hours in a year, that year can be counted as a break in service. But, if you work between 600 and 999 hours, that year cannot be counted as a break, although you get no pension credit for that year.

Finally, you may not be allowed to count the years you worked before age 22. Although pension plans are allowed to give you credit for those years, many start giving you pension credit only after you reach age 22. This can be important if you started work right after high school and you need those years to get your 10 years minimum credit.

Q. *Can I get any money back from the pension plan if I leave the job before 10 years?*

A. Usually, no. Most pension plans are funded entirely by employer contributions, and the worker cannot withdraw that money. If the worker made after tax contributions to the plan, he or she may be able to withdraw those contributions upon leaving the job.

Some Alternatives

Q. *There's no pension plan where my husband works. Is there anything we can do to provide a supplement to social security benefits?*

A. Yes. Anyone who works outside the home and is not covered by a pension plan can set up an Individual Retirement Account (IRA) and save for retirement. These accounts allow you to take a tax deduction for amounts set aside in your own retirement fund up to 15% of your income or $1,500 a year, whichever is less. When you retire and begin collecting benefits, you pay taxes then, usually at a lower rate.

A homemaker is not eligible to set up an IRA because she does not earn income. But a recent change in the tax laws allows your husband to set one up for you if he is eligible in his own right. He can either set up separate IRAs, one for you and one for himself, and pay a maximum of $875 into each account annually; or he may establish a joint IRA account, limited to 15% of his income or $1,750 per year, whichever is less. If your husband establishes an IRA for you, the account belongs to you, and it is yours to draw on at retirement age, whether or not your husband is still living. If your husband refuses to set up an IRA account for you, there is nothing you can do, short of going to work and becoming eligible for your own account.

Q. *My husband owns his own business. What kind of pension plan is available to those who are self-employed?*

A. Your husband can set up an IRA account, but as a self-employed person, he is also eligible to establish what is called a Keogh account. Keogh accounts have the same tax advantages as IRAs in that they allow you the holder to delay paying taxes on a portion of your income until retirement. But the Keogh rules allow the owner of the account to put $7,500 or 15% of his compensation into the retirement fund, while a regular IRA is limited to $1,500 a year. An advantage of the Keogh account is that if the money is withdrawn as a lump sum at retirement, a portion of it can be taxed at favorable capital gains rates. Income from an IRA is all taxed at ordinary income rates.

But, unlike the IRA, there is no way to set up an account for a spouse under a Keogh plan. Your husband could designate you as the beneficiary of his Keogh plan, but you would only get the money if he died.

There were 308,000 Wisconsin women 65 and over in 1977 ... and one in 13 were in nursing homes

Over two-thirds of all Wisconsin nursing home residents were supported through federal medicaid or medicare funds

A WIDOW'S RIGHTS TO HER SHARE OF THE FAMILY PROPERTY

We have seen that the property laws hurt women in marriage and divorce. We shouldn't be too surprised, then, to see that they also handicap women when they are at their most vulnerable–when they become widows. Shirley Weger learned that a wife's labor can count for nothing when the time comes to distribute the husband's estate.

Shirley Weger

The True Story of Shirley Weger

Shirley married Herman in 1948. He had been married previously and was the father of a son. A few years after the marriage, Shirley was injured in an auto accident and received $11,000 in damages for the injury. She and her husband decided to go into the motel business, using Shirley's $11,000 to purchase land and borrowing $73,000 for construction costs.

Both Shirley and Herman, a Waukesha County couple, signed the loan, but only Herman's name appeared on the deed. Herman, who worked in construction, was general contractor in the construction of the motel. After it was completed, Shirley managed the motel for a year while Herman worked at an outside job. When the motel venture became successful enough for Herman to quit his job, they ran the motel together for several years.

In 1960, the couple sold the motel on a land contract for $252,000. Shirley signed the document and was included as a party to the contract. However, payments on the contract were made to Herman alone. Since he had always done the family bookkeeping, Shirley never asked him what he did with the money.

She signed the tax returns Herman prepared each year, which reported the interest on the land contract as being equally divided between Herman and herself.

In 1973, Herman died. It was then that Shirley learned that Herman had deposited all land contract payments in a savings account which he maintained jointly with the son from his previous marriage. And she also learned that, although she had been a party to the land contract, she was not considered a joint tenant in its proceeds.

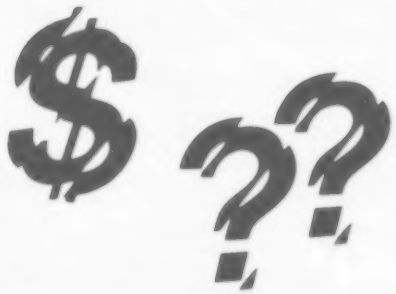
Shirley went to court.

"That money is half mine," she argued.

"I bought the land the motel stands on. I signed the loans for the money to build it. I helped operate it, day in and day out. I signed the land contract, and my name is on the mortgage," she said.

The court disagreed, saying that it was presumed that, since her husband held title to the property in his name alone, she was made a party to the contract only to waive her dower and homestead* rights. She would not be considered a joint tenant unless she could conclusively prove that a joint ownership was intended. The

*special protections given to both marital partners when disposing of the family home



How long will it take me to be trained for a higher paying job to earn enough to meet the cost or expenses needed to pay for utilities taxes, etc.? I'm 57 years old now. What do I do until???

loans, mortgage, and income tax returns were not enough proof for the court.

"At least give me my $11,000 back," the widow pleaded. But the court also denied that request; there was no evidence in the court record, other than her words, that the land had been purchased with her money.

"If this is the way it is," Shirley finally said, "then my husband lied to me and defrauded me of my share of the proceeds. Let me prove this in a new trial."

This request was also denied.

The court's comment was, "There is no basis on which this court could find any miscarriage of justice."

What is Shirley Weger doing today? Together with their daughter, she is still fighting the fraud issue in the courts. She maintains that evidence which would have supported her claims was not presented at the first trial. She has nearly exhausted the savings that she had, and she may lose her house to pay for legal fees she has already incurred. After spending a great deal of money and energy on a complicated and, to date, fruitless legal battle, Mrs. Weger and her daughter feel bitter and frustrated about the law and the limitations of a cumbersome and expensive legal system.

Q. *Is there any way people like Shirley could receive an even break?*

A. Yes, the law could be changed to treat marriage as an equal partnership. In a marital partnership property system, all assets accumulated during a marriage would belong equally to the husband and the wife, except for gifts, inheritances, and legal settlements awarded to just one of the partners. Under such a system, Shirley would have received a one-half interest in the profits from the motel sale. Instead of nothing, she would have received nearly $100,000, which would have enabled her to retire in comfort and dignity.

Q. *But what about now? Is there any way I can protect myself under the current property system?*

A. A good first step would be to take an active interest in the financial arrangements your husband makes. Ask questions and keep asking them until you are satisfied that you understand the implications of the financial decisions being made. You may even wish to consult your own attorney. It is in your interest to educate yourself as much as possible on the subject because it is your future security which is at stake. Many wives rely on their husbands to look after their interests for them. But as Mrs. Weger's story shows, even in a happy marriage, that can be a costly mistake. Court fights to undo the damage are very expensive and may not be terribly successful.

Q. *My husband died recently leaving no will. To my shock, I discovered that he has a son from a previous marriage who just turned up. What does this do to my rights to his estate?*

A. You get half of the estate if this long-lost son is the only surviving child. If you and your husband had children as well, you get one-third of the estate.

Making Sure the Wife's Contributions are Counted

Q. *Are there any general guidelines a family in a separate property state can follow today to ensure that the wife's contributions to the relationship are assigned adequate economic value?*

A. *If the wife is employed outside the home,* she can keep her earnings entirely separate from those of her husband, in a savings account in her name only or as property owned by her alone. If a portion of her earnings is used for family expenses, care should be taken that as great a proportion of *her* financial contributions as of his is used for house or property mortgage payments. It is a mistake for one to buy all the consumable items like food and clothing and the other to make all the mortgage payments by check unless the couple consciously decide to build the record that only one of them paid for the property and that it belongs to that person alone.

The same principles apply whether the wife has independent income from earnings, savings, a trust fund, inheritance or any other source.

If a wife and husband are starting a family business, and their intention is that both are to have equal control and an equal share of the proceeds, certain steps should be taken to see that the wife's contributions are given adequate economic value by society. First, document the capital contributed by each spouse from separately owned funds (savings or inheritances,

The Electric company don't ask me how much I earn. They just send the Bill.
The Gas Company don't ask me how much I earn. They just send the Bill.
The Taxes (property) don't ask me how much I earn. They just send the Bill.
I must meet these demands or I'm out on the street. Then what? ■

for instance). Second, decide if the business should operate as a partnership, a proprietorship, or a corporation. Each of these business arrangements has its own advantages and disadvantages. A lawyer or accountant can help a couple decide which is best in a particular situation. Whichever arrangement is chosen, make sure that the wife is actually treated as a person who is making valuable economic contributions.

If a partner, she should have a regular share of the profits and should file the same tax returns as any other business partner. If an employe, she should be paid a salary, make social security contributions, and she should get all the fringe benefits and have the same type of employment contract that other employes do.

If the wife works in an already established family business, there are two questions. The first is how to ensure that her *future* contributions to the business are assigned adequate economic value by the law, which is the same question that faces couples just starting in business. The second and more difficult question is how to make sure that the wife's *past* contributions to the business will be regarded by the law as having adequate economic value. A couple faced with this problem will need to reconstruct and document past contributions insofar as possible and to work closely with their attorney or accountant to undo as much past damage as is possible.

If the wife is a full-time homemaker, it is much more difficult to ensure that she is credited with her share of contributions to any family assets. One approach is for the husband to make gifts to the wife each year in an amount equal to one-half the year's savings.

Up to $3,000 may be given tax-free from one spouse to the other each year; most families are not able to save more than $6,000 annually, so most people should not have to worry about gift tax consequences under this plan.

The wife should keep this money in her own separate account, and from it could make half of any mortgage payments (on principal reduction only), half of any mutual fund contributions, and half of any stock purchases made by the family. Half of any stock or mutual funds purchased should be bought in the name of each spouse separately. Again, careful record-keeping is extremely important, since without it the law presumes that all financial contributions come from the breadwinner.

If her husband refuses to cooperate with these ideas, a wife has little recourse. Theoretically, an employed wife can refuse to contribute to family expenses; but she is unlikely to do so if it means that she and her children go hungry and wear rags. Similarly, a wife could refuse to do her share in a family business; but a business failure would be such an economic disaster for the family that her refusal to participate is not a real option. And the full-time homemaker lacks even a theoretical choice. All wives are, to a certain extent, dependent on their husband's good graces in these matters—and the full-time homemaker is entirely at her husband's mercy.

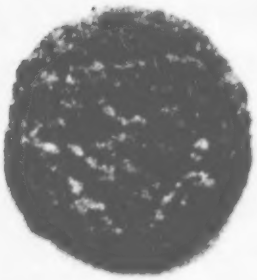
The True Story of Doris Kersten

Doris and Lester Kersten got married in 1948. At the time, Lester owned a 40-acre farm and his parents owned the adjoining 79-acre tract. After the wedding, Doris moved onto the farm with Lester and his parents. The couple made an agreement to buy the elder Kerstens' farm for $6,000. True to their word, Doris and Lester paid the agreed purchase price with money they earned from working the farm, and they took over the property as joint tenants.

When Lester died after 25 years of marriage, almost all that the couple owned had been acquired during their marriage. They had made substantial capital improvements to the farm, all of which had been paid from farm profits. Lester and Doris had devoted all their working efforts during their marriage to operating the farm. In addition to running the household and raising four children, Doris helped keep the farm books, cared for and trained the calves, helped with the milking, operated tractors during baling operations, and generally assisted Lester in the farm work.

In addition, Doris ran the farm alone for two periods of time when Lester was sick. They considered themselves a team, and Lester's cousin Art Kersten later testified that Lester could not have run the farm without Doris.

There was no written partnership agreement between Doris and Lester. Doris never reported personal income



The way the cookie crumbles

In 1976, almost one in five women over 65 were poor compared to one in 10 older men

The median income of women 65 and over was $2,816 compared to $5,293 for men that age

Retired women workers received an average monthly Social Security payment of $197, compared to $248 for men

for state or federal income tax purposes. Farm income was reported as Lester's for income tax and social security purposes. The milk check, their primary source of farm income, was made out to Lester.

When Lester died, Doris paid inheritance taxes of $3,685.46 on a total taxable estate of $99,139.52. Then she went to court to have the tax redetermined, arguing that the farm was really half hers, and that she should only have to pay inheritance tax on Lester's half. The trial court agreed, and the judge ordered the State Revenue Department to pay Doris a refund of $2,911.01 to reflect the fact that the bulk of the property in the estate was owned 50-50 by Doris and Lester. The Revenue Department appealed the case to the Supreme Court, but lost there too.

The law at that time said that when one owner of property held in joint tenancy died, the survivor had to pay tax on all jointly held property, unless the survivor could show that the property actually belonged to him or her. In the past, ownership of a portion of land held in joint tenancy could only be shown by proving a monetary contribution.

The question decided by the Wisconsin Supreme Court was whether Doris' personal services on the farm were worth enough for tax purposes to establish that she owned half the farm.

Yes, said the court, breaking with past practice of the Revenue Department.

"We agree with the trial court holding that the continuing contribution of Doris Kersten in services, industry, and skills to the operation of the farm enterprise constituted contribution 'in money's worth' in the production of joint income used to acquire the jointly held assets involved in the trial court's order," the court held.

New State Law for Widow's Inheritance Tax

But Doris Kersten's 1976 victory did not clear up all the problems involving widows and joint tenancy. First, the decision left unclear how much personal service a wife would have to perform in order to qualify as part owner of any property held in joint tenancy. Second, it said nothing about the housewife who worked only in the home and performed no services for a family business or farm.

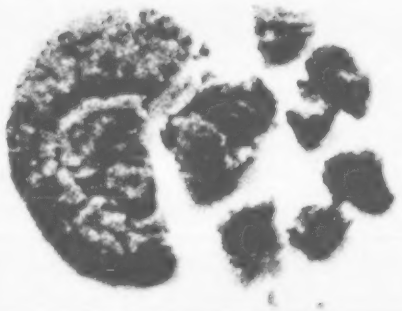
In order to clarify some of these questions, the Wisconsin legislature passed a new law changing the method of taxing joint property when a joint tenant dies on or after July 1, 1976.

The method of taxation depends on the type of property involved. Certain types of joint property like real estate and stock certificates cannot be sold or disposed of unless both joint tenants sign the document. For this kind of property, the "fractional interest" rule applies. This means that if a husband and wife are joint tenants in a farm, the wife pays tax only on her husband's half of the farm when he dies, since Wisconsin law now presumes that she owns the other half. For this type of property, she doesn't have to show that she contributed money toward the purchase of the property.

Other types of property like joint savings and checking accounts are called "incomplete transfers," and are treated differently under state tax law. This type of property can be

Women receive less than men in retirement payments and very few women ever qualify for a private pension

Supplemental Security Income (SSI) is paid to the very poor, blind, disabled and aged: 70 percent of those over 65 who received SSI in 1976 were women



disposed of with the signature of only *one* spouse. The law requires the survivor to pay taxes on this type of property, except on those amounts proved to have been contributed by the survivor. Thus, a homemaker may have to pay taxes on all the money in a joint savings account although it was only through her household thrift that the couple was able to accumulate savings.

Co-ownership of Real Estate

Q. *Are there different ways that two or more people can share ownership of real estate?*

A. Yes. In Wisconsin there are two: *joint tenancy* and *tenancy in common.* There are three major differences involved. *First:* joint tenants have an equal interest in the property; tenants in common may own unequal shares–they may have a half interest or, for instance, a two-thirds or even a one-quarter interest. *Second:* at the death of any joint tenant, that person's share of the property passes automatically to the other surviving joint tenant(s); a tenant in common has the right to will his or her share of the property to whomever he or she pleases. If there is no will, that person's share follows the intestacy laws. *Third:* Property owned by a husband and wife as joint tenants may be taxed differently from property they own as tenants in common.

Two of the major reasons under old common law for choosing to hold property in joint tenancy have now been legislated away: under the old law a joint tenant could not sell his or her share without the permission of the other joint tenant; also, under the old law a creditor did not have access to a debtor's share of a joint tenancy. These old protections that came with joint tenancy no longer apply.

Caution: the law presumes that real property given or sold to two or more persons is transferred to them as tenants in common unless the transfer document uses language that leaves no doubt that a joint tenancy is intended or *unless* those receiving the property are husband and wife.

Q. *What are the different estate and inheritance tax consequences of holding real estate as tenants in common rather than as joint tenants?*

A. As the story of Doris Kersten illustrates, sometimes estate or inheritance tax on property held in joint tenancy has been based on the "fractional interest" rule, at others it has been based on cash contribution. Estate or inheritance tax on property held in tenancy in common has always been based on "fractional interest," though gift tax may have been due at the time of purchase.

Today, because of recent changes in federal and state laws that grant tax credits, exemptions and exclusions to surviving spouses, only those with estates valued at more than $400,000 would be significantly affected by the different tax consequences arising from the manner in which they share ownership. Those with large estates should seek expert tax advice.

New State Gift Tax Law

At the same time, the legislature changed the state gift tax law. If a husband and wife establish a joint tenancy in real estate and each contribute equally to the purchase price, there is no gift, and no gift tax. BUT, suppose the husband is the sole breadwinner in the family. If the couple buys a house in joint tenancy, the husband is considered to be making a gift to the wife of her interest in the house.

For example, Mr. and Mrs. Smith buy a $60,000 home as joint tenants, putting down $10,000 as a down-payment. If Mr. Smith contributes all the money, Mr. Smith is making a gift to Mrs. Smith of half the equity, or $5,000. They pay no gift tax, however, because state law allows spouses to give each other $100,000 over their lifetimes, as well as an additional $3,000 a year before gift tax applies.

In addition, as Mr. Smith pays off the principal (not the interest) on the mortgage, that too is considered a gift to his wife. But he would not have to worry about gift tax unless he paid more than $6,000 in principal in any year, since he may make gifts to his wife of $3,000 each year without gift tax liability.

If a gift of more than $3,000 is made in any one year, both donor and donee should promptly file a completed gift tax report form with the Wisconsin Department of Revenue.

"We urge you by your self-respect, by every consideration for the human race, to arise and take possession of your birthright to freedom and equality."

LUCY STONE

☆ ☆ ☆ ☆ ☆ ☆ ☆ ☆ ☆ ☆

The law in the area of federal estate tax was radically changed by the Tax Reform Act of 1976. If your estate planning was completed prior to 1977 you might want to review your previous decisions in the light of the new law.

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FEDERAL ESTATE TAX OWED BY A WIDOW

Q. *I am a farm wife. I have worked hard with my husband for 20 years to make our operation a success. But I've heard that some women have to sell their farms to pay the taxes when their husbands die. How can I make sure that doesn't happen to me?*

A. You're right to worry about this problem while your husband is still alive, and you can do something to plan your estates. It's hard to give general guidelines without knowing how your farm is currently owned.

IF THE FARM BELONGS TO YOUR HUSBAND ALONE, you may want to consider his making a "gift"

Mary Heath

Cody Nebr.
Oct. 27, 1977

I was always an outdoor girl and worked with my husband. I rode horseback and helped with the cattle. I helped during calving, pulling calves and doctoring them. I pitched hay one winter when his health was bad. The boys helped feed before going to school and helped at other things after school.

I had about 30 yearling steers when we were married that eventually we ~~bought~~ used to buy a section of land. My folks built us a 3 bedroom house. But when Floyd died the lawyer said that was too long ago to count and it all went in his estate.

Floyd broke his hip (a building blew over on him) and was laid up. The boys and I did all the work. One boy was going to school in Curtis and so only helped on special occasions.

The boys were picking corn after Floyd died and the heifers needed to be started on corn so I got on the tractor and learned to run the loader to load silage. I fed them around a month.

"If you're going to play the game properly, you'd better know every rule."

BARBARA JORDAN (1936-)
Quoted in Ebony, 1975

to you of your share of the farm. Depending on the size of your farm and your equity in it, some gift tax will probably be due. (He may give you up to $100,000 during his lifetime, plus an additional $3,000 each year, with no gift tax consequences.) You would need to file a new deed listing both of you as owners, either as joint tenants or as tenants in common. He would also have to file a federal gift tax return form to document that he has chosen to treat the transfer as a gift. Such a "gift" can reduce the taxes owed when your husband dies, because it will not be included as part of his taxable estate. However, under federal law there is a unified gift and estate tax credit system which means that if you use up part or all of this credit for any gift tax liability, the tax credit at time of death will be appropriately reduced in calculating any estate tax due.

This treatment is available for all property acquired by spouses in joint tenancy after December 31, 1976, not just farm property.

When Floyd died, the law said everything was his. They gave me half as a widow - I paid on the rest - I owed $40 000 but I had to dig up more. I pay over 10 years. Cattle prices are disastrous, now corn prices the same - I am going deeper in debt all the time, I don't know how much longer I can go on borrowing.

I worked with Floyd for 33 years for my board and room. It was all right with me. I had the idea that what was his was mine and what was mine was his. We were putting all our money back into the place and improving it. Now, the inheritance tax may be the final straw to make me lose it.

I need a calving shed. I have been getting by by hard work putting small calves in together + then out again with their mothers + back in a storm. I am getting to old for this work. Do I go in debt more?

Wednesday we ran the fattening steers through the chute - with other help - to treat for grubs and implant. I let them in the chute and poured the Warbex on them.

I done a lot of fence fixing last spring - everyone did because of snow damage. I set posts and spliced wire.

I have never done any of the bigger tractor work but ran the mower + rake some this summer.

I have done every job in the hay field when we need horses - even to getting in the stack with a pitchfork. When the kids were little they stayed in the car nearby.

If I had worked for wages in town and applied that on the ranch the IRS would have given me credit. In those times, we didn't realize what was coming - that Floyd should have paid me wages - his wife.

I guess I have jumped around a lot - it will not do me any good - maybe it would help someone else. I'd better get to feeding my pigs.

Yours truly,
Mary Heath

Rural Women

A farm wife should have the same ownership rights as her spouse under State inheritance and Federal estate laws. Tax law should recognize that the labor of a farm wife gives her an equitable interest in the property.

adopted at National Women's Conference, November, 1977, Houston, Texas

IF YOU AND YOUR HUSBAND OWN YOUR FARM AS TENANTS IN COMMON, it is presumed that you have each contributed equally and only one-half of its value will be included in his estate, so you should have no problem.

IF YOU AND YOUR HUSBAND OWN YOUR FARM AS JOINT TENANTS, and the joint tenancy was created prior to December 31, 1976, the "contribution rule" applies and the "owner" for tax purposes is the person who contributed the money toward the purchase price. Probably that person was your husband, so the full value of the property will be included in his estate and you will be liable for tax on all of it–even on "your" half. You may re-create your joint tenancy so the new "fractional interest" rule applies and then you would be taxed only on half. However, depending on the size of your farm and the equity you have in it, there may be gift tax consequences if you choose this course of action, since according to the law your husband, as the owner/contributor, will be "giving" you your half of the property.

The "gift" approach may make sense for you if you expect real estate values to continue to increase and if you are young enough that you can both expect to live for 20-30 more years. A gift tax payment now could save you from paying estate and inheritance tax on a much larger amount later. However, other approaches might make more sense, depending on the facts of your situation. You can leave the joint tenancy as it is and attempt to prove "contribution," as Mrs. Kersten did in contesting her state inheritance tax, after your husband dies. (Consider the uncertainty of success, the emotional strain and the legal costs of this alternative.) Or, you may want to follow the advice of some experts and just "sit tight" until the marital property and tax system is reformed–a process which is under way, but may take a very long time to complete. **The unfortunate fact is that there are risks and drawbacks to each of the options open to you; you will have to weigh the advantages and disadvantages in the light of all the facts of your individual situation, the federal and state laws as they were modified in 1976 and 1977, and then gamble.** Since you will have to take a calculated risk, it is tremendously important that you obtain expert legal advice in this matter.

You should also be aware that a new provision in the federal estate tax law helps to alleviate the federal tax burden on families that run farms or businesses. This tax benefit is available if the property is transferred at the time of the death of the owner to another family member and is not disposed of within 15 years. A reduction in estate taxes is achieved by permitting the real estate to be valued as part of a continuing business rather than valued at its fair market value on the date of death.

If the property is disposed of within 15 years, an estate tax would be due at the time of disposition. If, however, the property remains in the family for more than 15 years, no additional estate tax will be due. The new provision also allows the payment of any taxes due on an installment basis over a period of years.

Q. *How much property can my husband leave me before the estate must pay federal estate tax?*

A. With a properly drafted will, assuming no lifetime gifts between the spouses and no other deductions, a surviving spouse in 1978 would not have to worry about federal estate tax unless the adjusted gross estate exceeded $384,000. In 1979, that figure goes up to $397,000, in 1980 to $411,000, and in 1981 to $425,000. However, you may have to file a tax form, even if you owe no tax obligation. In planning your estates, you and your husband may wish to use tax strategies not only to minimize the tax you may owe at his death but also to minimize the tax your children will ultimately pay after both of you have died. This area is extremely complex, and it is necessary for you to have a competent tax attorney draft the will in order to insure that you qualify for the most advantageous tax treatment.

Q. *We are a farm family with an opportunity to buy the farm we have rented for the past 10 years. I have been busy helping out generally and raising our three children. On paper it may look as though I have not contributed equally to the savings we are using to purchase the farm. How can my husband and I make the purchase and manage the*

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business so that my contributions are properly counted?

A. First, make sure that you buy the property jointly and that both your names appear on the deed. You should own the property as joint tenants or as tenants in common.

Since your financial contribution to the downpayment has not been clearly documented, you would be wise to have your husband make a "gift" to you of your share of the down-payment. This can be done by his declaring the gift on a federal gift tax return form which he should file at the time you acquire the property. Depending on the size of the down-payment, some gift tax may be due. (A maximum of $3,000 in any one year, and an additional $100,000 over the course of his lifetime, may be given tax-free.)

The fact that you and your husband consider yourselves business partners does not make you partners in the eyes of the law. You may wish to form a legal partnership with a written partnership document. Or, you might consider incorporating the farm, though this option involves a lot of paperwork and red tape and most experts do not advise this course of action merely to save on taxes. You should make sure that you can document your part in earning your family's income by seeing that major income sources–such as the milk check, or payment for the sale of a cash crop–are made out to both of you, and not just to your husband.

Beginner's Guide To Estate Planning

Q. *Are there any rules of thumb for estate planning which might circumvent the unfair effects of the law?*

A. START EARLY. Most people put off estate planning until they are near retirement age. This is unfortunate, since the process of building an estate begins with a first job (or perhaps an early inheritance) and continues throughout one's life. A married couple can significantly alter the economic impact on one spouse of the death of the other, if over the years of their marriage they have followed a savings plan tailored to meet their individual needs. Simply saving money does not guarantee economic security for a surviving spouse. Careful and complete documentation is essential to establish the wife's monetary contributions. What kind of assets have been accumulated, in whose name they are held, and who contributed the funds for their purchase all are matters of tremendous importance. The time to begin thinking about estate planning is on–or before–your wedding day. Early careful planning may well mean the difference between comfort and poverty in your future.

GET EXPERT ADVICE. Tax and inheritance law is changing rapidly. The Federal Tax Reform Act of 1976 made many changes which should ease the sometimes staggering inheritance tax burden on farm wives in particular, but for others as well. State law is also in flux. Especially if the estate is large, it is important to contact a lawyer specializing in tax and estate planning who is knowledgeable about these changes in the law.

COOPERATE AND KEEP RECORDS. Long term estate planning to safeguard the interests of the homemaker whose contributions may have been largely or entirely unpaid is impossible without the full cooperation of both spouses. A wife who is concerned about her survivorship rights or her property rights in case of divorce can do nothing to protect herself if her husband is unwilling to cooperate in such estate planning. All she can do is carefully document any MONEY contributions she has made toward family possessions.

SOURCES

1. Lynn Caine: quoted from *Widow*. Bantam: New York, 1974. P. 163.
2. It Was Most Sudden: written by Lee Larsen
3. The Discarding of Mrs. Hill: condensed with permission from *Ladies Home Journal*, February, 1976.
4. The True Story of Shirley Weger: *In re Weger*, 71 Wis. 2d 484, 238 N.W. 2d 522 (1975).
5. The True Story of Doris Kersten: *In re Estate of Kersten*, 71 Wis. 2d 757, 239 N.W. 2d 86 (1976).
6. Widowhood statistics from these sources: *Aging*, November-December, 1975; California Commission on the Status of Women; Wisconsin Department of Administration, Demographic Services Center; U.S. Department of Labor, Bureau of Labor Statistics; U.S. Department of Commerce, Bureau of the Census; Social Security Administration.
7. Pension stories supplied by the Pension Rights Center, 1346 Connecticut Avenue, N.W., Room 1019, Washington, D.C. 20036.

WHERE DO WE GO FROM HERE?

We have seen how law and custom in the 1970's treat married, divorced and widowed women. They are better than the chattels they were in the 1770's, when married women's legal identity was completely submerged into that of their husband's, so that they could not own property independently or make any contracts. They are somewhat better off than married women in the 1870's who, by then-recent legal reforms, were allowed to keep as their own any property they had inherited or acquired independently. But they are still barred from equal financial partnership in the ownership or management of assets accumulated through joint efforts during the marriage. They still are prohibited from keeping full autonomous rights over their own persons–their physical selves–when they marry. Housewives are still second-class citizens in that they are not covered by health or disability insurance, and they earn no pensions or even social security benefits for their unpaid contributions to the family except through their husbands.

Martha Griffiths, former congresswoman from Michigan and member of the International Women's Year Commission, said in 1977:

If our daughters... cannot expect that their work in the home will be recognized as of equal value and deserving equal dignity with that of the spouse who works outside the home, the institution of the family and our society will suffer.

Unless society is to suffer from increased family instability we must change the laws. In Wisconsin we have made an excellent beginning with the reform of the divorce law. But the bedrock on which the family is built is marriage. Yet the marriage and marital property laws, patched and repatched

"Women are one-half of the world but until a century ago... it was a man's world. The laws were man's laws. The government a man's government, the country a man's country ...the man's world must become a man's and a woman's world. Why are we so afraid? It is the next step forward on the path to the sunrise..."

MARTHA THOMAS (1857-1935)
Address in Buffalo, 1908

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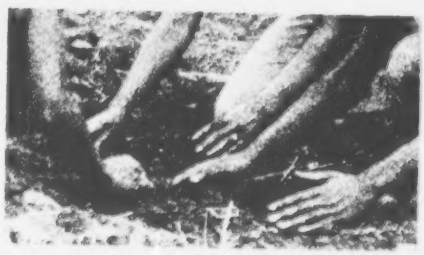
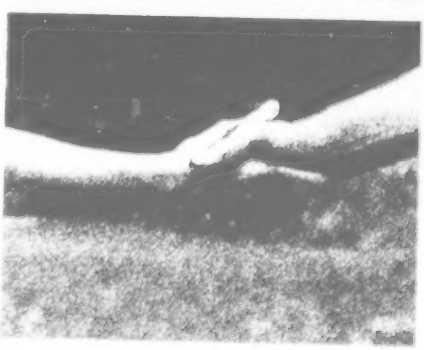
over the past 500 years, provide such a distorted framework for the families of today that women and men, when they learn about them, often recoil in horror. "I would never have got married if I had known what the law binds me to!" is a common reaction... Which points up not only that the laws are sadly antiquated and do not reflect the spirit of our times, but also that marriage is a contract to which there is only rarely informed consent.





We look to the day when marriage will be a partnership between equal individuals;

When neither will have the legal right to physically force the other to any act against his or her will;

When society will no longer condone violent abuse by one toward the other;

When the contributions of each to the partnership will be recognized, whether they take the form of income from paid work or of unpaid services to the family;

When the savings of the partnership will belong equally to both partners and the management of family assets will be shared;

When each person has equal access to continuous health, retirement and income insurance in his or her own right instead of some qualifying only some of the time through their "dependent" relationship to another, who is seen as the head of the household.

We look to that day, and will work for it.

I swear to you.
On my common woman's head.

The common woman is as common
as a common loaf of bread.
And will rise.

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